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IDAHO CODE

CONTAINING THE

GENERAL LAWS OF IDAHO

ANNOTATED

ORIGINALLY PUBLISHED BY AUTHORITY OF
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LAWS 1949, CHAPTER 167 AS AMENDED

Compiled Under the Supervision of the
Idaho Code Commission

RICHARD F. GOODSON
R. DANIEL BOWEN THOMAS A. MILLER
COMMISSIONERS

MAX M. SHEILS, JR.
EXECUTIVE SECRETARY

TITLE 49

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PUBLISHER'S NOTE

Since the publication in 2000 of former Replacement Title 49, many laws have been amended or repealed and many new laws have been enacted. The resulting increase in the size of the cumulative supplement for the former volume has made it necessary to revise this volume. Accordingly, Replacement Title 49 is issued with the approval and under the direction of the Idaho Code Commission.

This publication contains annotations taken from decisions of the Idaho Supreme Court and the Court of Appeals, and the appropriate federal courts, posted on *lexis.com* as of April 1, 2008. These cases will be printed in the following reports:

Idaho Reports
Pacific Reporter, 3rd Series
Federal Supplement, 2nd Series
Federal Reporter, 3rd Series
United States Supreme Court Reports, Lawyers' Edition, 2nd Series

Following is an explanation of the abbreviations of the Court Rules used throughout the Idaho Code.

I.R.C.P.	Idaho Rules of Civil Procedure
I.R.E.	Idaho Rules of Evidence
I.C.R.	Idaho Criminal Rules
M.C.R.	Misdemeanor Criminal Rules
I.I.R.	Idaho Infraction Rules
I.J.R.	Idaho Juvenile Rules
I.C.A.R.	Idaho Court Administrative Rules
I.A.R.	Idaho Appellate Rules

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USER'S GUIDE

To assist the legal profession and the layperson in obtaining the maximum benefit from the Idaho Code, a User's Guide has been included in the first volume of this set.

ADJOURNMENT DATES OF SESSIONS OF LEGISLATURE

Article 3, § 22 of the Idaho State Constitution provides: "No act shall take effect until sixty days from the end of the session at which the same shall have been passed, except in case of emergency, which emergency shall be declared in the preamble or in the body of the law."

Section 67-510 Idaho Code provides: "No act shall take effect until July 1 of the year of the regular session or sixty (60) days from the end of the session at which the same shall have been passed, whichever date occurs last, except in case of emergency, which emergency shall be declared in the preamble or body of the law."

Every joint resolution, unless a different time is prescribed therein, takes effect from its passage."

This table is given in order that the effective date of acts, not carrying an emergency or which do not specify an effective date, may be determined with a minimum of delay.

Year	Adjournment Date
1921	March 5, 1921
1923	March 9, 1923
1925	March 5, 1925
1927	March 3, 1927
1929	March 7, 1929
1931	March 5, 1931
1931 (E.S.)	March 13, 1931
1933	March 1, 1933
1933 (E.S.)	June 22, 1933
1935	March 8, 1935
1935 (1st E.S.)	March 20, 1935
1935 (2nd E.S.)	July 10, 1935
1935 (3rd E.S.)	July 31, 1936
1937	March 6, 1937
1937 (E.S.)	November 30, 1938
1939	March 2, 1939
1941	March 8, 1941
1943	February 28, 1943
1944 (1st E.S.)	March 1, 1944
1944 (2nd E.S.)	March 4, 1944
1945	March 9, 1945
1946 (1st E.S.)	March 7, 1946
1947	March 7, 1947
1949	March 4, 1949
1950 (E.S.)	February 25, 1950
1951	March 12, 1951
1952 (E.S.)	January 16, 1952

1953	March 6, 1953
1955	March 5, 1955
1957	March 16, 1957
1959	March 9, 1959
1961	March 2, 1961
1961 (1st E.S.)	August 4, 1961
1963	March 19, 1963
1964 (E.S.)	August 1, 1964
1965	March 18, 1965
1965 (1st E.S.)	March 25, 1965
1966 (2nd E.S.)	March 5, 1966
1966 (3rd E.S.)	March 17, 1966
1967	March 31, 1967
1967 (1st E.S.)	June 23, 1967
1968 (2nd E.S.)	February 9, 1968
1969	March 27, 1969
1970	March 7, 1970
1971	March 19, 1971
1971 (E.S.)	April 8, 1971
1972	March 25, 1972
1973	March 13, 1973
1974	March 30, 1974
1975	March 22, 1975
1976	March 19, 1976
1977	March 21, 1977
1978	March 18, 1978
1979	March 26, 1979
1980	March 31, 1980
1981	March 27, 1981
1981 (E.S.)	July 21, 1981
1982	March 24, 1982
1983	April 14, 1983
1983 (E.S.)	May 11, 1983
1984	March 31, 1984
1985	March 13, 1985
1986	March 28, 1986
1987	April 1, 1987
1988	March 31, 1988
1989	March 29, 1989
1990	March 30, 1990
1991	March 30, 1991
1992	April 3, 1992
1992 (E.S.)	July 28, 1992
1993	March 27, 1993
1994	April 1, 1994
1995	March 17, 1995
1996	March 15, 1996
1997	March 19, 1997

1998	March 23, 1998
1999	March 19, 1999
2000	April 5, 2000
2001	March 30, 2001
2002	March 15, 2002
2003	May 3, 2003
2004	March 20, 2004
2005	April 6, 2005
2006	April 11, 2006
2006 (E.S)	August 25, 2006
2007	March 30, 2007
2008	April 2, 2008

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TITLE 49

MOTOR VEHICLES

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CHAPTER 1

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49-101. Definitions. — Words and phrases used in this title are defined in sections 49-102 through 49-127, Idaho Code. Words used in the masculine gender include the feminine gender, and the singular number includes the plural, as well as the plural the singular. [I.C., § 49-101, as added by 1988, ch. 265, § 2, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-101, which comprised S.L. 1927, ch. 244, § 1, p. 374; am. 1929, ch. 195, § 1, p. 362; am. 1931, ch. 185, § 1, p. 304; I.C.A., § 48-101; am. 1933, ch. 177, § 1, p. 323; am. 1939, ch. 226, § 1, p. 501; am. 1951, ch. 119, § 1, p. 273; am. 1953, ch. 261, § 1, p. 425; am. 1955, ch. 87, § 1, p. 191; am. 1957, ch. 28, § 1, p. 36; am. 1965, ch. 82, § 1, p. 132; am. 1974, ch. 27, § 84, p. 811; am. 1982, ch. 95, § 1, p. 185; am. 1983, ch.

255, § 1, p. 674; am. 1984, ch. 84, § 1, p. 158; am. 1985, ch. 36, § 2, p. 70; am. 1985, ch. 117, § 3, p. 242; am. 1985, ch. 179, § 1, p. 460; am. 1986, ch. 287, § 1, p. 719; am. 1987, ch. 190, § 1, p. 382, was repealed by § 1 of S.L. 1988, ch. 265, effective January 1, 1989.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-102. Definitions — A. — (1) “Abandon” means to leave a vehicle on private property without the permission of the person having rights to the possession of the property, or on a highway or other property open to the public for the purposes of vehicular traffic or parking, or upon or within the right-of-way of any highway, for twenty-four (24) hours or longer.

(2) “Abandoned vehicle” means any vehicle observed by an authorized officer or reported by a member of the public to have been left within the limits of any highway or upon the property of another without the consent of the property owner for a period of twenty-four (24) hours or longer, except that a vehicle shall not be considered abandoned if its owner-operator is unable to remove it from the place where it is located and has notified a law enforcement agency and requested assistance.

(3) “Accident” means any event that results in an unintended injury or property damage attributable directly or indirectly to the motion of a motor vehicle or its load, a snowmobile or special mobile equipment.

(4) “Actual physical control” means being in the driver’s position of a motor vehicle with the motor running or the vehicle moving.

(5) “Administrator” means the federal highway administrator, the chief executive of the federal highway administration, an agency within the U.S. department of transportation.

(6) “Age of a motor vehicle” means the age determined by subtracting the manufacturer’s year designation of the vehicle from the year in which the designated registration fee is paid. If the vehicle has the same manufactur-

er's year designation as the year in which the fee is paid, or if a vehicle has a manufacturer's year designation later than the year in which the fee is paid, the vehicle shall be deemed to be one (1) year old.

(7) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.

(8) "Alcohol or alcoholic beverage" means:

(a) Beer as defined in 26 U.S.C. section 5052(a), of the Internal Revenue Code;

(b) Wine of not less than one-half of one percent (.005%) of alcohol by volume; or

(c) Distilled spirits as defined in section 5002(a)(8), of the Internal Revenue Code.

(9) "Alley" means a public way of limited use intended only to provide access to the rear or side of lots or buildings in urban districts.

(10) "All-terrain vehicle" or "ATV" means any recreation vehicle with three (3) or more tires, weighing under nine hundred (900) pounds, fifty (50) inches or less in width, having a wheelbase of sixty-one (61) inches or less, traveling on low-pressure tires of ten (10) psi or less, has handlebar steering and a seat designed to be straddled by the operator.

(11) "Amateur radio operator." (See "Radio operator, amateur," section 49-119, Idaho Code)

(12) "Ambulance" means a motor vehicle designed and used primarily for the transportation of injured, sick, or deceased persons, on stretchers, cots, beds, or other devices for carrying persons in a prone position.

(13) "Applicant" means an individual who applies to obtain, transfer, upgrade, or renew a driver's license.

(14) "Approved driver training course" means a training course from a school licensed under the provisions of chapter 21 of this title or a driver training course approved by another United States jurisdiction provided the course was taken while an individual was a resident of that United States jurisdiction.

(15) "Approved testing agency" means a person, firm, association, partnership or corporation approved by the director of the Idaho state police which is:

(a) In the business of testing equipment and systems;

(b) Recognized by the director as being qualified and equipped to do experimental testing; and

(c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry.

(16) "Armed forces" means the army, navy, marine corps, coast guard and the air force of the United States.

(17) "Authorized emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(18) "Authorized officer" means any member of the Idaho state police, or any regularly employed and salaried deputy sheriff, or other county employee designated to perform the function of removing abandoned vehicles or junk vehicles by the board of county commissioners of the county in which

a vehicle is located, or any regularly employed and salaried city peace officer or other city employee designated to perform the function of removing abandoned vehicles or junk vehicles by the city council, or a qualified person deputized or appointed by the proper authority as reserve deputy sheriff or city policeman, authorized within the jurisdiction in which the abandoned vehicle or junk vehicle is located.

(19) "Authorized transportation department employee" means any employee appointed by the board to perform duties relating to enforcement of vehicle laws as have been specifically defined and approved by order of the board (see section 40-510, Idaho Code).

(20) "Auto transporter" means a vehicle combination constructed for the purpose of transporting vehicles. [I.C., § 49-102, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 1, p. 151; am. 1990, ch. 391, § 1, p. 1092; am. 1991, ch. 288, § 1, p. 739; am. 1992, ch. 238, § 1, p. 707; am. 1993, ch. 334, § 1, p. 1234; am. 1995, ch. 116, § 25, p. 386; am. 2000, ch. 469, § 107, p. 1450; am. 2003, ch. 87, § 1, p. 265; am. 2008, ch. 18, § 1, p. 25; am. 2008, ch. 409, § 1, p. 1125.]

STATUTORY NOTES

Amendments. — This section was amended by two 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 18, in subsection (14), added "or a driver training course approved by another United States jurisdiction provided the course was taken while an individual was a resident of that United States jurisdiction."

The 2008 amendment, by ch. 409, rewrote subsection (10), which formerly read: "All-terrain vehicle" or "ATV" means any recreation vehicle with three (3) or more tires, weighing under eight hundred fifty (850) pounds, forty-eight (48) inches or less in width, having a wheelbase of sixty-one (61) inches or less, traveling on low-pressure tires of ten (10) psi or less. Such vehicles shall be registered under the provisions of section 49-402, Idaho

Code, for operation on public highways, unless exempted under the provisions of section 49-426, Idaho Code."

Federal References. — Section 5002(a)(8) of the Internal Revenue Code, referred to in subdivision (8)(c) of this section, is compiled as 26 U.S.C. § 5002(a)(8).

Compiler's Notes. — Former § 49-102 was amended and redesignated as § 49-201 by § 4 of S.L. 1988, ch. 265, effective January 1, 1989.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 6 of S.L. 1990, ch. 391 provided that the act should be in full force and effect on and after January 1, 1991.

Section 30 of S.L. 1995, ch. 116 declared an emergency. Approved March 14, 1995.

49-103. Definitions — B. —

(1) "Bicycle" means every vehicle propelled exclusively by human power upon which any person may ride, having two (2) tandem wheels, and except scooters and similar devices.

(2) "Board" means the Idaho transportation board.

(3) "Boat transporter" means any vehicle combination designed and used specifically to transport assembled boats and boat hulls.

(4) "Broker" means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, but not resale, of a new vehicle, and who is not:

- (a) A representative or an agent or employee of a representative;
- (b) A distributor, agent or employee of a distributor; or

(c) At any point in the transaction, the owner of the vehicle involved in the transaction.

(5) "Bus" means every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "bus" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(6) "Business district." (See "District", section 49-105, Idaho Code)

(7) "Buy." (See "Sell", "sold", and "purchase", section 49-120, Idaho Code) [I.C., § 49-103, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 408, § 1, p. 996; am. 1991, ch. 272, § 1, p. 686.]

STATUTORY NOTES

Cross References. — Idaho transportation board, § 40-301.

by § 6 of S.L. 1988, ch. 265, effective January 1, 1989.

Compiler's Notes. — Former § 49-103 was amended and redesignated as § 49-205

The words enclosed in parentheses so appeared in the law as enacted.

49-104. Definitions — C. — (1) "Cancellation of driver's license" means the annulment or termination by formal action of the department of a person's driver's license because of some error or defect in the driver's license or because the licensee is no longer entitled to the driver's license. The cancellation of a driver's license is without prejudice and after compliance with requirements, the individual may apply for a new driver's license at any time after cancellation.

(2) "Caravaning" means the transportation of any motor vehicle into, out of, or within the state operating on its own wheels or in tow for the purpose of sale or offer of sale by any agent, dealer, manufacturer's representative, purchaser, or prospective purchaser, regardless of residence unless the motor vehicle is licensed by the state of Idaho, or is owned by an automobile dealer, duly licensed as a dealer by this state. It shall also be considered as the transportation of property for hire by a motor vehicle upon the highways of this state.

(3) "Certificate of liability insurance" means a certificate of liability insurance issued by an insurance company authorized to do business in this state or a certificate of liability insurance issued by the department of insurance which demonstrates current insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle described in the certificate in an amount not less than that required by section 49-1212, Idaho Code, and also demonstrates the current existence of any other coverage required by title 41, Idaho Code, or a certificate of self-insurance issued pursuant to law for each motor vehicle to be registered. A certificate of liability insurance shall contain the information required by the department of insurance, including the name and address of the owner of the motor vehicle and a description of the motor vehicle including identification number if there is

one, or a statement that all vehicles owned by a person or entity are covered by insurance, the inception date of coverage, and the name of the insurer. "Certificate of liability insurance" may also include the original contract of liability insurance or a true copy, demonstrating the current existence of the liability insurance described above.

(4) "Certification of safety compliance" means that a motor carrier certifies as part of its registration process that it has knowledge of the federal regulations and rules promulgated by the Idaho transportation department and the Idaho state police applicable to motor carriers.

(5) "Chains" means metal traction devices required pursuant to section 49-948, Idaho Code, which consist of two (2) circular metal loops, one (1) on each side of the tire, connected by not less than nine (9) evenly-spaced chains across the tire tread.

(6) "Commercial coach." (See section 39-4301, Idaho Code)

(7) "Commercial driver's license" means any class A, class B or class C driver's license as defined in section 49-105, Idaho Code.

(8) "Commercial driver license information system (CDLIS)" is the information system established to serve as a clearinghouse for locating information related to the licensing and identification of motor vehicle drivers.

(9) "Commercial driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.

(10) "Commercial vehicle" or "commercial motor vehicle." (See "Vehicle," section 49-123, Idaho Code)

(11) "Compliance review" means an on-site examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness.

(12) "Controlled substance" means any substance so classified under section 102(6) of the controlled substances act (21 U.S.C. 802(6)), and includes all substances listed on schedules I through V, of 21, CFR part 1308, as they may be revised from time to time.

(13) "Conviction" means the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment. A conviction for purposes of this title shall also include an infraction judgment.

(14) "Crosswalk" means:

(a) That part of a highway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable highway; and in the absence of a sidewalk on one side of the highway, that part of a highway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline.

(b) Any portion of a highway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface. [I.C., § 49-104, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 2, p. 151; am. 1989, ch. 310, § 1, p. 769; am. 1990, ch. 45, § 2, p. 71; am. 1996, ch. 370, § 1, p. 1244; am. 1998, ch. 110, § 5, p. 375; am. 1999, ch. 81, § 2, p. 237; am. 1999, ch. 383, § 3, p. 1051; am. 2000, ch. 469, § 108, p. 1450; am. 2005, ch. 83, § 1, p. 296; am. 2007, ch. 252, § 6, p. 737; am. 2008, ch. 330, § 1, p. 902.]

STATUTORY NOTES

Amendments. — This section was amended by two 1999 acts, ch. 81, § 2 and ch. 383, § 3, which appear to be compatible and have been compiled together.

The 1999 amendment, by ch. 81, in subsection (12), added the last sentence.

The 1999 amendment, by ch. 383, added present subsections (4) and (10) and redesignated the subsequent subsections.

The 2007 amendment, by ch. 252, updated the section reference in subsection (5).

The 2008 amendment, by ch. 330, added subsection (5) and redesignated the subsequent subsections accordingly.

Compiler's Notes. — Former § 49-104 was amended and redesignated as subsections (1)–(4) of § 49-202 by § 5 of S.L. 1988, ch. 265, effective January 1, 1989.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

Section 4 of S.L. 2008, ch. 330 declared an emergency. Approved April 1, 2008.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Commercial Vehicle.

Exception of motor truck owned and operated by person engaged in farming or stock-raising, and employing truck for transporting

products of husbandry, from classification of commercial truck, was not arbitrary. Curtis v. Pfost, 53 Idaho 1, 21 P.2d 73 (1933).

49-105. Definitions — D. [Effective until January 1, 2009.] —

(1) "Dealer" means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, motor-driven cycles, snow machines or motorbikes, travel trailers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also "salvage pool," section 49-120, Idaho Code.

(2) "Dealer's selling agreement." (See "Franchise," section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in

chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the limitations which otherwise apply to nonstate highways within an urban district. Provided, this subsection shall not limit the authority of the duly

elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(14) "Driver" means every person who drives or is in actual physical control of a vehicle.

(15) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(16) "Driver's license — Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related

industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(17) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(18) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T — Double/Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H — Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P — Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N — Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M — Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle or motor-driven cycle.

(f) "Endorsement S — School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(20) “Dromedary tractor” means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer. [I.C., § 49-105, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 3, p. 151; am. 1989, ch. 285, § 1, p. 549; am. 1989, ch. 310, § 2, p. 769; am. 1990, ch. 45, § 3, p. 71; am. 1991, ch. 89, § 1, p. 196; am. 1991, ch. 272, § 2, p. 686; am. 1992, ch. 115, § 1, p. 345; am. 1993, ch. 300, § 1, p. 1105; am. 1994, ch. 234, § 1, p. 728; am. 1996, ch. 270, § 1, p. 872; am. 1996, ch. 371, § 1, p. 1246; am. 1997, ch. 80, § 3, p. 165; am. 1997, ch. 155, § 1, p. 438; am. 1998, ch. 110, § 6, p. 375; am. 2000, ch. 469, § 109, p. 1450; am. 2005, ch. 183, § 1, p. 558; am. 2005, ch. 352, § 4, p. 1085; am. 2006, ch. 42, § 4, p. 122; am. 2008, ch. 198, § 1, p. 630.]

STATUTORY NOTES

Amendments. — This section was amended by two 1997 acts — ch. 80, § 3, effective September 13, 1997 and ch. 155, § 1, effective July 1, 1997 — which appear to be compatible and have been compiled together.

The 1997 amendment, by ch. 80, § 3, added new subsections (6) and (17) and renumbered former subsections (6) to (18) as present subsections (7) to (20).

The 1997 amendment, by ch. 155, § 1, in present subsection (11) added the last sentence of subdivision (c).

This section was amended by two 2005 acts which appear to be compatible and have been compiled together.

The 2005 amendment, by ch. 183, § 1, added “new or used neighborhood electric vehicles” in subsection (1), and made punctuation and stylistic changes throughout the section.

The 2005 amendment, by ch. 352, § 4, in subsection (18), added “or a school bus” at the end of the introductory paragraph, added paragraph (f), and made punctuation and

stylistic changes throughout the section.

The 2006 amendment, by ch. 42, inserted “utility type vehicles” in the first sentence of subsection (1).

The 2008 amendment, by ch. 198, in the first sentence in subsection (1), inserted “motor-driven cycles,” and substituted “motorbikes” for “motor scooters”; and in subsection (18)(e), added “or motor-driven cycle.”

Federal References. — The Hazardous Material Transportation Act, referred to in subsections (16)(c) and (18)(b), was repealed in 1994. See the Hazardous Materials Transportation Authorization Act of 1994, 49 U.S.C.S. § 5101 et seq.

Compiler's Notes. — The words enclosed in parentheses so appeared in the law as enacted.

For this section as effective January 1, 2009, see the following section, also numbered, § 49-105.

Effective Dates. — Section 5 of S.L. 1996, ch. 270 provided that the act should be in full force and effect on May 1, 1996.

49-105. Definitions — D. [Effective January 1, 2009.] —

(1) “Dealer” means every person in the business of buying, selling or exchanging five (5) or more new or used vehicles, new or used neighborhood electric vehicles, new or used motorcycles, motor-driven cycles, snow machines or motorbikes, travel trailers, truck campers, all-terrain vehicles, utility type vehicles or motor homes in any calendar year, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, or who has an established place of business for the sale, lease, trade, or display of these vehicles. No insurance company, bank, finance company, public utilities company, or other person coming into possession of any vehicle, as an incident to its regular business, who shall sell that vehicle under any contractual rights it may have, shall be considered a dealer. See also “salvage pool,” section 49-120, Idaho Code.

(2) “Dealer’s selling agreement.” (See “Franchise,” section 49-107, Idaho Code)

(3) "Department" means the Idaho transportation department acting directly or through its duly authorized officers and agents, except in chapters 6 and 9, title 49, Idaho Code, where the term means the Idaho state police, except as otherwise specifically provided.

(4) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of the owner of a vehicle dealership who, in the event of the owner's death, is entitled to inherit the ownership interest in the dealership under the same terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealership, has been appointed by a court as the legal representative of the dealer's property.

(5) "Director" means the director of the Idaho transportation department, except in chapters 6, 9 and 22, title 49, Idaho Code, where the term means the director of the Idaho state police.

(6) "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in records of the department about a person to any other person, organization or entity, by any means of communication.

(7) "Disqualification" as defined in 49 CFR part 383, means withdrawal by the department of commercial vehicle driving privileges.

(8) "Distributor" means any person, firm, association, corporation or trust, resident or nonresident, who has a franchise from a manufacturer of vehicles to distribute vehicles in this state, and who in whole or in part sells or distributes new vehicles to dealers or who maintains distributor representatives.

(9) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(10) "Distributor representative" means any person, firm, association, corporation or trust, and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vehicles for the purpose of making or promoting the sale of vehicles, or for supervising or contacting dealers or prospective dealers.

(11) "District" means:

(a) Business district. The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

(b) Residential district. The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred (300) feet or more is in the main improved with residences, or residences and buildings in use for business.

(c) Urban district. The territory contiguous to and including any highway which is built up with structures devoted to business, industry or dwelling houses. For purposes of establishing speed limits in accordance with the provisions of section 49-654, Idaho Code, no state highway or any portion thereof lying within the boundaries of an urban district is subject to the

limitations which otherwise apply to nonstate highways within an urban district. Provided, this subsection shall not limit the authority of the duly elected officials of an incorporated city acting as a local authority to decrease speed limits on state highways passing through any district within the incorporated city.

(12) "Documented vessel" means a vessel having a valid marine document as a vessel of the United States.

(13) "Drag race" means the operation of two (2) or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one (1) or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of the vehicles within a certain distance or time limit.

(14) "Driver" means every person who drives or is in actual physical control of a vehicle.

(15) "Driver's license" means a license or permit issued by the department or by any other jurisdiction to an individual which authorizes the individual to operate a motor vehicle or commercial motor vehicle on the highways in accordance with the requirements of title 49, Idaho Code.

(16) "Driver's license — Classes of" are issued for the operation of a vehicle based on the size of the vehicle or the type of load and mean:

(a) Class A. This license shall be issued and valid for the operation of any combination of motor vehicles with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds, provided the manufacturer's gross vehicle weight rating (GVWR) of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds. Persons holding a valid class A license may also operate vehicles requiring a class B, C or D license.

(b) Class B. This license shall be issued and valid for the operation of any single vehicle with a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds, or any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds manufacturer's gross vehicle weight rating (GVWR). Persons holding a valid class B license may also operate vehicles requiring a class C license or a class D license.

(c) Class C. This license shall be issued and valid for the operation of any single vehicle or combination of vehicles that does not meet the definition of class A or class B, as defined in this section, but that either is designed to transport sixteen (16) or more people including the driver, or is of any size which does not meet the definition of class A or class B and is used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F. Persons holding a valid class C license may also operate vehicles requiring a class D license.

(d) Class D. This license shall be issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in section 49-123, Idaho Code.

(e) "Seasonal driver's license" means a special restricted class B or C driver's license to operate certain commercial vehicles in farm-related industries under restrictions imposed by the department. As used in this definition, "farm-related industry" shall mean custom harvesters, farm retail outlets and suppliers, agri-chemical businesses and livestock feeders. Seasonal driver's licenses are not valid for driving vehicles carrying any quantities of hazardous material requiring placarding, except for diesel fuel in quantities of one thousand (1,000) gallons or less, liquid fertilizers, i.e., plant nutrients, in vehicles or implements of husbandry with total capacities of three thousand (3,000) gallons or less, and solid fertilizers, i.e., solid plant nutrients, that are not mixed with any organic substance.

(17) "Driver record" means any record that pertains to an individual's driver's license, driving permit, driving privileges, driving history, identification documents or other similar credentials issued by the department.

(18) "Driver's license endorsements" means special authorizations that are required to be displayed on a driver's license which permit the driver to operate certain types of commercial vehicles or commercial vehicles hauling certain types of cargo, or to operate a motorcycle or a school bus.

(a) "Endorsement T — Double/Triple trailer" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle authorized to tow more than one (1) trailer.

(b) "Endorsement H — Hazardous material" means this endorsement is required on a class A, B or C license if the driver is operating a vehicle used in the transportation of materials found to be hazardous according to the hazardous material transportation act and which requires the motor vehicle to be placarded under the federal hazardous materials regulations 49 CFR part 172, subpart F.

(c) "Endorsement P — Passenger" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle designed to transport sixteen (16) or more people including the driver.

(d) "Endorsement N — Tank vehicle" means this endorsement is required on a class A, B or C license to permit the licensee to operate a vehicle which is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in federal regulations 49 CFR part 171. This definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons.

(e) "Endorsement M — Motorcycle" means this endorsement is required on a driver's license to permit the driver to operate a motorcycle or motor-driven cycle.

(f) "Endorsement S — School bus" means this endorsement is required on a class A, B or C license to permit the licensee to operate a school bus in accordance with 49 CFR part 383, to transport preprimary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(19) "Driveway" means a private road giving access from a public way to a building on abutting grounds.

(20) "Dromedary tractor" means every motor vehicle designed and used primarily for drawing a semitrailer and so constructed as to carry manifested cargo in addition to a part of the weight of the semitrailer. [I.C., § 49-105, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 3, p. 151; am. 1989, ch. 285, § 1, p. 549; am. 1989, ch. 310, § 2, p. 769; am. 1990, ch. 45, § 3, p. 71; am. 1991, ch. 89, § 1, p. 196; am. 1991, ch. 272, § 2, p. 686; am. 1992, ch. 115, § 1, p. 345; am. 1993, ch. 300, § 1, p. 1105; am. 1994, ch. 234, § 1, p. 728; am. 1996, ch. 270, § 1, p. 872; am. 1996, ch. 371, § 1, p. 1246; am. 1997, ch. 80, § 3, p. 165; am. 1997, ch. 155, § 1, p. 438; am. 1998, ch. 110, § 6, p. 375; am. 2000, ch. 469, § 109, p. 1450; am. 2005, ch. 183, § 1, p. 558; am. 2005, ch. 352, § 4, p. 1085; am. 2006, ch. 42, § 4, p. 122; am. 2008, ch. 106, § 1, p. 294; am. 2008, ch. 198, § 1, p. 630.]

STATUTORY NOTES

Amendments. — This section was amended by two 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 106, effective January 1, 2009, inserted "truck campers" in the first sentence in subsection (1).

The 2008 amendment, by ch. 198, in the first sentence in subsection (1), inserted "motor-driven cycles," and substituted "motor-

bikes" for "motor scooters"; and in subsection (18)(e), added "or motor-driven cycle."

Compiler's Notes. — For this section as effective until January 1, 2009, see the preceding section, also numbered § 49-105.

Effective Dates. — Section 7 of S.L. 2008, ch. 106 provided "This act shall be in full force and effect on and after January 1, 2009."

49-106. Definitions — E. — (1) "Electric personal assistive mobility device" means a self-balancing two (2) nontandem wheeled device designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour or less.

(2) "Emergency vehicle." (See "Vehicle," section 49-123, Idaho Code)

(3) "Encumbrance." (See "Lien," section 49-113, Idaho Code)

(4) "EPA" means the environmental protection agency of the United States.

(5) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

(6) "Established place of business" means a place occupied either continuously or at regular periods by a dealer or manufacturer where his books and records are kept and a large share of his business is transacted.

(7) "Excessive" or "unusual noise" means any sound made by a passenger motor vehicle or a motorcycle at any time under any condition of grade, speed, acceleration or deceleration, which exceeds ninety-two (92) decibels, or any lower decibel level that is fixed by law or rules adopted by the board of health and welfare, on the "A" scale of a general radio company No. 1551-B sound level meter, or equivalent, stationed at a distance of not less than twenty (20) feet to the side of a vehicle or motorcycle as the vehicle or motorcycle passes the soundmeter or is stationed not less than twenty (20) feet from a stationary motor or engine.

(8) "Excessive speed" means any speed of fifteen (15) miles per hour or more above the posted speed limit, and is only for purposes of determining disqualification of commercial driving privileges.

(9) "Executive head," as used in chapter 20, title 49, Idaho Code, means the governor of the state of Idaho.

(10) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases with which the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(11) "Extraordinary circumstances" means any situation where an emergency exists or public safety is endangered, or any situation in which a vehicle:

- (a) Is blocking or impeding traffic; or
- (b) Is causing a hazard; or
- (c) Has the potential of impeding any emergency vehicle; or
- (d) Is impeding any snow removal or other road maintenance operation; or
- (e) Has been stolen but not yet reported as recovered; or
- (f) Is not registered, or displays a license plate registration tag which has been expired. [I.C., § 49-106, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 4, p. 151; am. 1989, ch. 113, § 1, p. 255; am. 1990, ch. 45, § 4, p. 71; am. 1998, ch. 392, § 1, p. 1197; am. 2002, ch. 160, § 1, p. 466.]

STATUTORY NOTES

Cross References. — Board of health and welfare, § 56-1005.

Prior Laws. — Former § 49-106, which comprised 1927, ch. 244, § 6, p. 374; I.C.A., § 48-106; am. 1969, ch. 50, § 1, p. 139, was repealed by S.L. 1976, ch. 55, § 1.

Compiler's Notes. — The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 47 of S.L.

1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

Cited in: State v. Shearer, 136 Idaho 217, 30 P.3d 995 (Ct. App. 2001).

49-106A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-106A was amended and redesignated as § 49-1308

by § 329 of S.L. 1988, ch. 265, effective January 1, 1989.

49-107. Definitions — F. — (1) "Factory branch" means a branch office maintained by a person who manufactures or assembles vehicles for sale to distributors or to dealers, or for directing or supervising, in whole or in part, its representatives.

(2) "Factory representative" means any person and each officer and employee engaged as a representative of a manufacturer of vehicles or by a factory branch for the purpose of making or promoting a sale of their vehicles, or for supervising or contacting their dealers or prospective dealers.

(3) "Farm tractor" means every motor vehicle designed or adapted and used primarily as a farm implement power unit operated with or without other farm implements attached in any manner consistent with the structural design of that power unit.

(4) "Farm vehicle." (See "Vehicle," section 49-123, Idaho Code)

(5) "Federal motor vehicle safety standards (FMVSS)" means those safety standards established by the national highway traffic safety administration, under title 49 CFR part 500-599, for the safe construction and manufacturing of self-propelled motorized vehicles for operation on public highways. Such vehicles as originally designed and manufactured shall be so certified by the manufacturer to meet the federal motor vehicle safety standards or the standards in force for a given model year or as certified by the national highway traffic safety administration.

(6) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.

(7) "Fifth wheel trailer." (See "Trailer," section 49-121, Idaho Code)

(8) "Financial institution" means any bank that is authorized to do business in the state of Idaho and any other financial institution that is registered with the department of finance.

(9) "Flammable liquid" means any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

(10) "Fleet" means one (1) or more apportionable vehicles.

(11) "Fleet registration" means an optional form of registration through the department rather than a county assessor for registration of twenty-five (25) or more commercial or farm vehicles or any combination thereof. This registration is not an option for fleets of rental vehicles. Terms and conditions are further specified in section 49-434(5), Idaho Code.

(12) "Fold down camping trailer." (See "Trailer," section 49-121, Idaho Code)

(13) "Foreign vehicle." (See "Vehicle," section 49-123, Idaho Code)

(14) "Franchise" means a contract or agreement between a dealer and a manufacturer of new vehicles or its distributor or factory branch by which the dealer is authorized to engage in the business of selling any specified make or makes of new vehicles.

(15) "Full-time salesman" means any person employed as a vehicle salesman on behalf of a dealer for thirty (30) or more hours per week, and who sells, purchases, exchanges or negotiates for the sale, purchase or exchange of five (5) or more vehicles during each year in which his license is

in effect. [I.C., § 49-107, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 5, p. 151; am. 1991, ch. 272, § 3, p. 686; am. 1998, ch. 392, § 2, p. 1197; am. 2008, ch. 198, § 2, p. 633.]

STATUTORY NOTES

Cross References. — Supervision of banks by department of finance, § 26-1101 et seq.

Amendments. — The 2008 amendment, by ch. 198, added subsection (5) and redesignated the subsequent subsections accordingly.

Compiler's Notes. — Former § 49-107 was amended and redesignated as § 49-441 by § 101 of S.L. 1988, ch. 265, effective January 1, 1989. Section 49-441 was later repealed by S.L. 1992, ch. 35, § 24.

The words enclosed in parentheses so appeared in the law as enacted.

49-108. Definitions — G. — (1) “Good cause” means the failure of a dealer to comply with reasonable performance criteria established by a manufacturer, if the dealer was apprised by the manufacturer, in writing, of that failure; and

(a) The notification stated that notice was provided of failure of performance;

(b) The dealer was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with the criteria; and

(c) The dealer did not demonstrate substantial progress toward compliance with the performance criteria of the manufacturer during the period.

(2) “Gross combination weight rating (GCWR)” for the purposes of chapter 4, title 49, Idaho Code, means the value specified by the manufacturer as the maximum loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon or registered weight rating whichever is greater. Towed units shall not include implements of husbandry. For the purposes of chapter 3, title 49, Idaho Code, “gross combined weight rating (GCWR) is as defined in 49 CFR part 383.

(3) “Gross vehicle weight rating (GVWR)” for the purposes of chapter 4, title 49, Idaho Code, means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or registered weight rating, whichever is greater. For the purposes of chapter 3, title 49, Idaho Code, “gross vehicle weight rating (GVWR) is as defined in 49 CFR part 383.

(4) “Gross weight” means the weight of a vehicle without load plus the weight of any load on that vehicle.

(5) “Group of vehicles” is one motor vehicle operated under its own motive power with one (1) motor vehicle in tow, or one or more motor vehicles in tow in saddlemount fashion, providing that saddlemounting meets the requirements prescribed by the United States department of transportation. [I.C., § 49-108, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 6, p. 151; am. 1992, ch. 268, § 1, p. 829; am. 1998, ch. 110, § 7, p. 375.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-108 was amended and redesignated as subsection (2) of § 49-426 by § 88 of S.L. 1988, ch. 265, effective January 1, 1989.

The words enclosed in parentheses so appeared in the law as enacted.

49-109. Definitions — H. — (1) “Habitual violator” means any person who has a driving record which shows a violation point count of eighteen (18) or more points in any consecutive twenty-four (24) month period; or twenty-four (24) or more points in any consecutive thirty-six (36) month period.

(2) “Hazardous material” means any material that has been designated as hazardous under 49 U.S.C. section 5103, and is required to be placarded under subpart F of 49 CFR part 172, or any quantity of material listed as a select agent or toxin under 42 CFR part 73.

(3) “Hazardous waste” means a material that is subject to the hazardous waste manifest requirements of the EPA due to the type and quantity of the material, or which would be subject to these requirements absent an interim authorization to the state under title 40, code of federal regulations or which includes in whole or in part polychlorinated biphenyls which are regulated by title 40, code of federal regulations, part 761.

(4) “Hearing aid dog.” (See “Hearing impaired person,” section 56-701A, Idaho Code)

(5) “Highway” means the entire width between the boundary lines of every way publicly maintained when any part is open to the use of the public for vehicular travel, with jurisdiction extending to the adjacent property line, including sidewalks, shoulders, berms and rights-of-way not intended for motorized traffic. The term “street” is interchangeable with highway.

(a) Arterial. Any highway designated by the local authority as part of a major arterial system of highways within its jurisdiction.

(b) Controlled-access. Any highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway except at such points only or in such manner as may be determined by the public authority having jurisdiction over the highway.

(c) Through. Any highway or portion of it on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on the through highway in obedience to a stop sign, yield sign, or other traffic-control device. [I.C., § 49-109, as added by 1988, ch. 265, § 2, p. 549; am. 1990, ch. 45, § 5, p. 71; am. 1994, ch. 264, § 1, p. 813; am. 2006, ch. 164, § 1, p. 489.]

STATUTORY NOTES

Prior Laws. — Former § 49-109 was amended and redesignated as § 49-442 by § 102 of S.L. 1988, ch. 265, effective January 1, 1989, which section was repealed by S.L. 1992, ch. 35, § 25, effective July 1, 1992.

Amendments. — The 2006 amendment, by ch. 164, rewrote subsection (2), which formerly read: “‘Hazardous material’ means a substance or material as defined in section

103 of the hazardous material transportation act 49 APP, U.S.C. 1801 et seq.”

Compiler’s Notes. — The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each

applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined

by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

Highway.

There was substantial evidence from which the trial court could conclude that the intersection involved was used by the public and was publicly maintained. *State v. Morgan*, 134 Idaho 331, 1 P.3d 832 (Ct. App. 2000).

Cited in: *Ahles v. Tabor*, 136 Idaho 393, 34 P.3d 1076 (2001); *Hudelson v. Delta Int'l Mach. Corp.*, 142 Idaho 244, 127 P.3d 147 (2005).

DECISIONS UNDER PRIOR LAW

Streets or Highways.

Because the terms "street" and "highway" have been defined synonymously by the legislature, former section which defined "inter-

section" and § 49-640 were applicable equally to "streets" and "highways." *State v. Bennion*, 115 Idaho 181, 765 P.2d 692 (Ct. App. 1988).

49-110. Definitions — I. — (1) "Identifying number" means:

(a) Motor number. That identifying number stamped on the engine of a vehicle.

(b) Vehicle identification number. The numbers and letters, if any, placed on a vehicle by the manufacturer for the purpose of identifying the vehicle.

(2) "Implements of husbandry" means every vehicle including self-propelled units, designed or adapted and used exclusively in agricultural, horticultural, dairy and livestock growing and feeding operations when being incidentally operated. Such implements include, but are not limited to, combines, discs, dry and liquid fertilizer spreaders, cargo tanks, harrows, hay balers, harvesting and stacking equipment, pesticide applicators, plows, swathers, mint tubs and mint wagons, and farm wagons. A farm tractor when attached to or drawing any implement of husbandry shall be construed to be an implement of husbandry. "Implements of husbandry" do not include semitrailers, nor do they include motor vehicles or trailers, unless their design limits their use to agricultural, horticultural, dairy or livestock growing and feeding operations.

(3) "Incidentally operated" means the transport of the implement of husbandry from one (1) farm operation to another.

(4) "Individual record" means a record containing personal information about a designated person who is the subject of the record as identified in a request for information.

(5) "Infraction" means a civil public offense, not constituting a crime, which is not punishable by incarceration and for which there is no right to a trial by jury or right to court-appointed counsel, and which is punishable by only a penalty not exceeding one hundred dollars (\$100) and no imprisonment.

(6) "Instruction permits":

(a) "Class A, B or C instruction permit" means a temporary privilege to operate a motor vehicle for which a commercial driver's license is required; is available only to a person who is eighteen (18) years of age or

older; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified therein.

(b) "Class D driver's training instruction permit" means a temporary privilege to operate a class D motor vehicle while attending classes as an enrollee of a public or private driver's training course only; is available to a person aged fourteen and one-half (14 1/2) up to age seventeen (17) years; is issued to the instructor of the driver's training course; is issued and expires pursuant to the provisions of section 49-307, Idaho Code; and the permittee is subject to the conditions specified in section 49-307, Idaho Code.

(c) "Class D instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements of a class D supervised instruction permit, or to any person seventeen (17) years of age or older; is valid for a period of one hundred eighty (180) days or as provided in section 49-305, Idaho Code, if applicable; privileges are limited to driving with a person who is at least eighteen (18) years of age who holds a valid class D driver's license and is actually occupying a seat beside the permittee; is issued pursuant to the provisions of section 49-305, Idaho Code; and the permittee is subject to the conditions specified in section 49-305, Idaho Code.

(d) "Class D supervised instruction permit" means a temporary privilege to operate a class D motor vehicle which is available to a person who is at least fourteen and one-half (14 1/2) years of age who has successfully completed an approved driver's training course, and is valid for a minimum of six (6) months. No person may apply for a class D driver's license until he has attained the age of at least fifteen (15) years and has successfully satisfied the requirements of this permit, as specified and issued pursuant to the provisions of section 49-307, Idaho Code.

(7) "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(8) "Insurer" means any insurer, public or private, which shall include, but not be limited to, insurance companies domiciled in the state of Idaho, agents, adjuster or any other person acting on behalf of any insurance not domiciled in the state of Idaho and any self-insured entity operating under Idaho insurance laws or rules.

(9) "International registration plan" means a registration reciprocity agreement among the states of the United States and provinces of Canada providing for payment of registration and licensing fees on a proportional basis determined by the fleet miles operated in the various jurisdictions.

(10) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway shall be regarded as a separate intersection. In the event an intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of the highways shall be regarded as a separate intersection.

(c) The junction of an alley with a street or highway shall not constitute an intersection. [I.C., § 49-110, as added by 1988, ch. 265, § 2, p. 549; am. 1996, ch. 327, § 1, p. 1117; am. 1997, ch. 80, § 4, p. 165; am. 2000, ch. 214, § 3, p. 583; am. 2000, ch. 418, § 2, p. 1331; am. 2007, ch. 249, § 1, p. 730; am. 2008, ch. 194, § 1, p. 608.]

STATUTORY NOTES

Amendments. — The 2007 amendment, by ch. 249, in the first sentence in subsection (6)(d), substituted “six (6) months” for “four (4) months.”

The 2008 amendment, by ch. 194, in subsection (6)(b), inserted “up to age seventeen (17)” and “and expires,” deleted “expires one (1) year from the date of issue” following “driver’s training course,” and substituted “specified in section 49-307, Idaho Code” for “specified therein”; in subsection (6)(c), inserted “or as provided in section 49-305, Idaho Code, if applicable,” and substituted “specified in section 49-305, Idaho Code” for “specified therein.”

Compiler’s Notes. — A former § 49-110 was amended and redesignated as subsection (7) of § 49-202 by § 5 of S.L. 1988, ch. 265, effective January 1, 1989.

Effective Dates. — Section 13 of S.L. 2000, ch. 214 provided that the act would be

in full force and effect on and after January 1, 2001.

Section 20 of S.L. 2000, ch. 418 provides: “Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later.” The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 2 of ch. 418 became effective October 1, 2000.

JUDICIAL DECISIONS

Cited in: State v. Morgan, 134 Idaho 331, 1 P.3d 832 (Ct. App. 2000); Hudelson v. Delta Int’l Mach. Corp., 142 Idaho 244, 127 P.3d 147 (2005); State v. Bettwieser, 143 Idaho 582, 149 P.3d 857 (Ct. App. 2006), cert. denied, 128 S. Ct. 441, 169 L. Ed. 2d 308 (2007).

Infractions on Reservation.

Under Idaho law, a traffic infraction is a violation of law which is criminal in nature,

and pursuant to federal law and Idaho law, the state had jurisdiction over tribal members such as the defendant for infractions occurring on state maintained highways located within the boundaries of an Indian reservation, and the officer had the right to identify the driver of the vehicle by requesting a driver’s license, registration and proof of insurance. State v. George, 127 Idaho 693, 905 P.2d 626 (1995).

49-111. Definitions — J. — (1) “Judgment” means a decree which shall have become final by expiration without appeal by the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages

because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement or settlement for damages.

(2) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country and a state or province of a foreign country. [I.C., § 49-111, as added by 1988, ch. 265, § 2, p. 549.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-111 by § 85 of S.L. 1988, ch. 265, effective January 1, 1989.
was amended and redesignated as § 49-419

JUDICIAL DECISIONS

Cited in: Idaho State Bar v. Eliassen, 128 Idaho 393, 913 P.2d 1163 (1996).

49-112. Definitions — K. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-112 by § 89 of S.L. 1988, ch. 265, effective January 1, 1989.
was amended and redesignated as § 49-427

49-113. Definitions — L. — (1) "Laned highway" means a highway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(2) "Lane of travel." (See "Traffic lane", section 49-121, Idaho Code)

(3) "Legal owner" means any person notated as "lienholder" of a vehicle, the notation appearing on the title records of the department and on the respective certificate of title.

(4) "License" or "license to operate a motor vehicle" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- (a) Any temporary license or instruction permit;
- (b) Any nonresident's operating privilege;
- (c) Any special permit issued by the department.

(5) "Licensing authority" as used in chapter 20 of this title with reference to Idaho, means the department.

(6) "Lien" or "encumbrance" means every security interest in any vehicle other than security interests in vehicles held in inventory for sale.

(7) "Lienholder" means a person holding a security interest in a vehicle.

(8) "Light weight" or "unladen weight" means the scale weight of a vehicle equipped for operation, but without any cargo on it.

(9) "Limit line" or "stop line" means a solid white line extending across a highway indicating the point behind which vehicles are required to stop, which must conform to the manual and specifications adopted by the board pursuant to section 49-201, Idaho Code.

(10) "Local authorities" means every county, highway district, municipal and other local board or body having authority to enact regulations,

resolution and/or ordinances relating to traffic on the highways, public rights-of-way and streets under their jurisdiction under the constitution and laws of this state. [I.C., § 49-113, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 7, p. 151; am. 1990, ch. 45, § 6, p. 71; am. 1992, ch. 115, § 2, p. 345; am. 1994, ch. 321, § 1, p. 1025; am. 1998, ch. 393, § 2, p. 1233.]

STATUTORY NOTES

Prior Laws. — Former § 49-113 was amended and redesignated as § 49-443 by § 103 of S.L. 1988, ch. 265, effective January 1, 1989, and was subsequently repealed by S.L. 1992, ch. 186, § 2.

Compiler's Notes. — The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 47 of S.L.

1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

Cited in: Bingham v. Idaho Dep't of Transp., 117 Idaho 147, 786 P.2d 538 (1989);

Rife v. Long, 127 Idaho 841, 908 P.2d 143 (1995).

49-113a. Fees for duplicate registration stickers. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-113a, as added by 1967,

ch. 428, § 2, p. 1245 was repealed by S.L. 1981, ch. 315, § 1.

49-114. Definitions — M. — (1) "Major component part" means a rear clip, cowl, frame or inner structure forward of the cowl, body, cab, front end assembly, front clip or such other part which is critical to the safety of the vehicle.

(2) "Manifest" means a form used for identifying the quantity, composition, origin, routing, waste or material identification code and destination of hazardous material or hazardous waste during any transportation within, through, or to any destination in this state.

(3) "Manufactured home." (See section 39-4105, Idaho Code)

(4) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered at an established place of business in this state. The term, for purposes of sections 49-1613 through 49-1615, 49-1617, 49-1622 and 49-1623, Idaho Code, shall include a distributor and other factory representatives.

(5) "Manufacturer's year designation" means the model year designated by the vehicle manufacturer, and not the year in which the vehicle is, in fact, manufactured.

(6) "Maximum gross weight" means the scale weight of a vehicle, equipped for operation, to which shall be added the maximum load to be carried as declared by the owner in making application for registration. When a vehicle against which a registration fee is assessed is a combination

of vehicles, the term "maximum gross weight" means the combined maximum gross weights of all vehicles in the combination.

(7) "Metal tire." (See "Tires," section 49-121, Idaho Code)

(8) "Mileage" means actual distance that a vehicle has traveled.

(9) "Moped" means a limited-speed motor-driven cycle having:

(a) Both motorized and pedal propulsion that is not capable of propelling the vehicle at a speed in excess of thirty (30) miles per hour on level ground, whether two (2) or three (3) wheels are in contact with the ground during operation. If an internal combustion engine is used, the displacement shall not exceed fifty (50) cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged; or

(b) Two (2) wheels or three (3) wheels with no pedals, which is powered solely by electrical energy, has an automatic transmission, a motor which produces less than two (2) gross brake horsepower, is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground and as originally manufactured, meets federal motor vehicle safety standards for motor-driven cycles. A moped is not required to be titled and no motorcycle endorsement is required for its operator.

(10) "Motorbike" means a vehicle as defined in section 67-7101, Idaho Code. Such vehicle shall be titled and may be approved for motorcycle registration pursuant to [under] section 49-402, Idaho Code, upon certification by the owner of the installation and use of conversion components that make the motorbike compliant with federal motor vehicle safety standards.

(11) "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike, but does not include a motor-driven cycle, a motorbike, a tractor or a moped.

(12) "Motor carrier" means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.

(13) "Motor-driven cycle" means a cycle with a motor that produces five (5) brake horsepower or less as originally manufactured that meets federal motor vehicle safety standards as originally designed, and does not include mopeds. Such vehicle shall be titled and a motorcycle endorsement is required for its operation.

(14[3]) "Motor home" means a vehicular unit designed to provide temporary living quarters, built into an integral part or permanently attached to a self-propelled motor vehicle chassis. The vehicle must contain permanently installed independent life support systems which meet the American National Standards Institute (ANSI) A119.7 Standard for Recreational Vehicles, and provide at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating and/or air conditioning, a potable water supply system, including a faucet and sink, separate 110-125 volt electrical power supply and/or LP-gas supply.

(15[4]) “Motorized wheelchair” means a motor vehicle with a speed not in excess of eight (8) miles per hour, designed for and used by a handicapped person.

(16[5]) “Motor number.” (See “Identifying number,” section 49-110, Idaho Code)

(17[6]) “Motor vehicle.” (See “Vehicle,” section 49-123, Idaho Code)

(18[7]) “Motor vehicle liability policy” means an owner’s or operator’s policy of liability insurance, certified as provided in section 49-1210, Idaho Code, as proof of financial responsibility, and issued by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(19[8]) “Motor vehicle record” means any record that pertains to a motor vehicle registration, motor vehicle title or identification documents or other similar credentials issued by the department or other state or local agency. [I.C., § 49-114, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 285, § 2, p. 695; am. 1989, ch. 310, § 3, p. 769; am. 1994, ch. 234, § 2, p. 728; am. 1995, ch. 339, § 1, p. 1119; am. 1997, ch. 80, § 5, p. 165; am. 1998, ch. 392, § 3, p. 1197; am. 1999, ch. 81, § 3, p. 237; am. 1999, ch. 383, § 4, p. 1051; am. 2000, ch. 418, § 3, p. 1331; am. 2001, ch. 73, § 1, p. 154; am. 2005, ch. 145, § 1, p. 456; am. 2006, ch. 360, § 1, p. 1097; am. 2008, ch. 198, § 3, p. 634; am. 2008, ch. 409, § 2, p. 1127.]

STATUTORY NOTES

Amendments. — This section was amended by two 1999 acts, ch. 81, § 3 and ch. 383, § 4, which appear to be compatible and have been compiled together.

The 1999 amendment, by ch. 81, in present subsection (16), deleted “or 49-1211” following “49-1210,” and deleted “except as otherwise provided in section 49-1211, Idaho Code” following “responsibility, and issued.”

The 1999 amendment, by ch. 383, added present subsection (11), redesignated former subsections (10) through (15) as present subsections (12) through (17), and in present subsection (16), deleted “or 49-1211” following “49-1210” and deleted “except as otherwise provided in section 49-1211, Idaho Code” following “responsibility, and issued.”

The 2006 amendment, by ch. 360, added subsection (9)(b).

This section was amended by two 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 198, added the last sentence in subsection (9)(b); added subsections (10) and (13), and redesignated the subsequent subsections accordingly; in subsection (11), inserted “that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike,” and substituted “but does not include a motor-driven cycle, a motorbike, a tractor or a moped” for “but excluding a tractor and moped.”

The 2008 amendment, by ch. 409, added the last sentence in subsection (9)(b); added subsection (10) and redesignated the subsequent subsections accordingly; and in subsection (11), inserted “that meets the federal motor vehicle safety standards as originally designed, and includes a converted motorbike,” and substituted “but does not include a motor-driven cycle, a motorbike, a tractor and moped” for “but excluding a tractor and moped.”

Compiler’s Notes. — Former § 49-114 was amended and redesignated as § 49-428 by § 90 of S.L. 1988, ch. 265, effective January 1, 1989.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 11 of S.L. 1994, ch. 234 provided that the act should take effect on and after September 1, 1994.

Section 20 of S.L. 2000, ch. 418 provides: “Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement,

whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 3 of ch. 418 became effective October 1, 2000.

JUDICIAL DECISIONS

Cited in: *Armstrong v. Farmers Ins. Co.*, 143 Idaho 135, 139 P.3d 737 (2006).

49-115. Definitions — N. — (1) "National network" means highways available to vehicles authorized by the provisions of the federal surface transportation assistance act of 1982 as amended, and listed in 23 CFR part 658, appendix A.

(2) "Neighborhood electric vehicle." (See "Vehicle," section 49-123, Idaho Code)

(3) "Noncommercial vehicle." (See "Vehicle," section 49-123, Idaho Code)

(4) "Nonresident" means every person who is not a resident of this state.

(5) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by that person of a motor vehicle, or the use of a vehicle owned by that person, in this state. [I.C., § 49-115, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 8, p. 151; am. 1990, ch. 45, § 7, p. 71; am. 2005, ch. 183, § 2, p. 558; am. 2007, ch. 20, § 1, p. 31.]

STATUTORY NOTES

Amendments. — The 2007 amendment, by ch. 20, added subsection (1) and redesignated the remainder of the section accordingly.

Compiler's Notes. — Former § 49-115 was amended and redesignated as § 49-429 by § 91 of S.L. 1988, ch. 265, effective January 1, 1989.

The words enclosed in parentheses so appeared in the law as enacted.

Federal References. — The federal surface transportation assistance act of 1982, referred to in (1), is act January 6, 1983, P.L.

97-424, which was generally codified in Titles 23 and 49 of the United States Code.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-116. Definitions — O. — (1) "Operator" means every person who is in actual physical control of a motor vehicle upon a highway or private property open to public use.

(2) "Out of service order" means a temporary prohibition against operating a commercial vehicle as declared by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction and which is applicable to a driver, a commercial motor vehicle or a motor carrier operation pursuant to federal regulations 49 CFR part [section] 386.72, 392.5, 395.13 or 396.9, or compatible laws, or to the North American uniform out-of-service criteria.

(3) "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but

excludes a lessee under a lease not intended as security. "Owner" for the purposes of chapter 12 means the person legally responsible for the operation of a vehicle upon the highways of the state of Idaho, whether as owner, lessee or otherwise. [I.C., § 49-116, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 9, p. 151; am. 1990, ch. 45, § 8, p. 71; am. 1996, ch. 371, § 2, p. 1246; am. 1998, ch. 110, § 8, p. 375.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-116 was amended and redesignated as § 49-130 by § 92 of S.L. 1988, ch. 265, effective January 1, 1989.

The bracketed word "section" in subsection (2) was inserted by the compiler.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full

force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

ANALYSIS

Operator.
Owner.

Operator.

Statutes which require that safety devices be carried in every vehicle from sunset to sunrise and which impose certain safety requirements on operators with a disabled vehicle clearly applied only to one who was either an operator or driver of the vehicle at issue, and as none of these safety statutes mention dealers, there was no statutory duty imposed upon a licensed commercial dealer of used motor vehicles to inspect for, equip vehicles with or warn buyers of the absence of statutorily required safety devices. *Mugavero v. A-1 Auto Sales, Inc.*, 130 Idaho 554, 944 P.2d 151 (Ct. App. 1997).

Under this section, the application of "operator" was limited to motor vehicles, and there was no assertion that a bicycle qualified as a motor vehicle. *State v. Doe (In re Doe)*, 139 Idaho 1, 72 P.3d 547 (Ct. App. 2003).

Owner.

Although the father paid for the vehicle (using the son's money), he did not possess any right of possession or control over the

vehicle, and he was not liable for the injuries caused by the son's driving the vehicle, under the theory of negligent entrustment. *Lopez v. Langer*, 114 Idaho 873, 761 P.2d 1225 (1988).

Where a certificate of title to an automobile was issued in the name of both father and daughter, and was in the actual possession of father, the father was entitled to the title of the automobile as against an automobile dealer to whom daughter had traded the automobile where dealer had been informed of father's ownership interest by daughter. *Latham Motors, Inc. v. Phillips*, 123 Idaho 689, 851 P.2d 985 (Ct. App. 1993).

The broad definition of vehicle ownership provided by this section, under which civil liability accrues once a buyer takes control and possession of the vehicle, applied where an insurance contract was at issue. *Northland Ins. Co. v. Boise's Best Autos & Repairs*, 132 Idaho 228, 970 P.2d 21 (Ct. App. 1997).

Cited in: *Empire Fire & Marine Ins. Co. v. North Pac. Ins. Co.*, 127 Idaho 716, 905 P.2d 1025 (1995).

DECISIONS UNDER PRIOR LAW

Operator.

Under circumstances where the insureds were present in the automobile which was being used in furtherance of the aim or object of the insureds, husband and wife, husband not being able to drive due to having drunk too much and then becoming ill, and the wife having the right to and being able to direct

the driver of the car, a friend, a member of the Air Force of the United States, regardless of exclusion in policy, he was driving the car as the agent of and under the control of insureds and solely on a mission or errand for the purposes of the insureds and in their presence and under such facts, insureds "operated" the car. *Mayflower Ins. Exch. v. Kosteriva*, 84

Idaho 25, 367 P.2d 572 (1961).

Former section, in excluding the term "chauffeur" from the definition of operator, recognizes that actual control is not always

requisite to be an operator. Mayflower Ins. Exch. v. Kosteriva, 84 Idaho 25, 367 P.2d 572 (1961).

49-117. Definitions — P. — (1) "Park" or "parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(2) "Park trailer." (See "Trailer," section 49-121, Idaho Code)

(3) "Part-time salesman" means any person employed as a vehicle salesman on behalf of a dealer less than thirty (30) hours per week.

(4) "Peace officer." (See section 19-5101(d), Idaho Code)

(5) "Pedestrian" means any person afoot and any person operating a wheelchair or a motorized wheelchair or an electric personal assistive mobility device.

(6) "Pedestrian path" means any path, sidewalk or way set-aside and used exclusively by pedestrians.

(7)(a) "Person" means every natural person, firm, fiduciary, copartnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality, and for the purposes of chapter 22 of this title shall include a private, common or contract carrier operating a vehicle on any highway of this state.

(b) "Person with a disability" means:

(i) A person who is unable to walk two hundred (200) feet or more unassisted by another person;

(ii) A person who is unable to walk two hundred (200) feet or more without the aid of a walker, cane, crutches, braces, prosthetic device or a wheelchair; or

(iii) A person who is unable to walk two hundred (200) feet or more without great difficulty or discomfort due to the following impairments: neurological, orthopedic, respiratory, cardiac, arthritic disorder, blindness, or the loss of function or absence of a limb.

(iv) For the purposes of chapters 3 and 4 of this title, a person with a permanent disability is one whose physician certifies that the person qualifies as a person with a disability pursuant to this subsection (7) (b), and further certifies that there is no expectation for a fundamental or marked change in the person's condition at any time in the future.

(8) "Personal information" means information that identifies an individual, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, the five-digit zip code of the person's address, or status of the driver's license or motor vehicle registration.

(9) "Pneumatic tire." (See "Tires," section 49-121, Idaho Code)

(10) "Pole trailer." (See "Trailer," section 49-121, Idaho Code)

(11) "Possessory lien" means a lien dependent upon possession for compensation to which a person is legally entitled for making repairs or

performing labor upon, and furnishing supplies or materials for, and for the towing, storage, repair, or safekeeping of, any vehicle of a type subject to registration.

(12) "Possessory lienholder" means any person claiming a lien, that lien claimed to have accrued on a basis of services rendered to the vehicle which is the subject of the lien.

(13) "Preceding year" means, for the purposes of section 49-435, Idaho Code, a period of twelve (12) consecutive months fixed by the department, prior to July 1 of the year immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall make it conform to the terms, conditions and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(14) "Pressure regulator valve" means a device or system which governs the load distribution and controls the weight borne by a variable load suspension axle in accordance with a predetermined valve setting.

(15) "Principal place of business" means an enclosed commercial structure located within the state, easily accessible and open to the public at all reasonable times, with an improved display area large enough to display five (5) or more vehicles of the type the dealer is licensed to sell, immediately adjoining the building, and at which the business of a dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning and other land-use regulatory ordinances, and in which building the public shall be able to contact the dealer or his salesmen in person or by telephone at all reasonable times, and at which place of business shall be kept and maintained the books, records and files necessary to conduct the business. The principal place of business shall display an exterior sign permanently affixed to the land or building, with letters clearly visible to the major avenue of traffic. In no event shall a room or rooms in a hotel, rooming house, or apartment house building or a part of any single or multiple unit dwelling house be considered a "principal place of business" within the terms and provisions of this title unless the entire ground floor of that hotel, apartment house, or rooming house building or dwelling house be devoted principally to and occupied for commercial purposes, and the office or offices of the dealer be located on the ground floor.

(16) "Private property open to the public" means real property not owned by the federal government or the state of Idaho or any of its political subdivisions, but is available for vehicular traffic or parking by the general public with the permission of the owner or agent of the real property.

(17) "Private road" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(18) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of the proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident,

and, subject to the limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars (\$15,000) because of injury to or destruction of property of others in any one (1) accident.

(19) "Proper authority" means a public highway agency.

(20) "Public highway agency" means the state transportation department, any city, county, highway district or any other state agency which has jurisdiction over public highway systems and public rights-of-way.

(21) "Public right-of-way" means a right-of-way open to the public and under the jurisdiction of a public highway agency, where the public highway agency has no obligation to construct or maintain said right-of-way for vehicular traffic.

(22) "Public road jurisdiction" means a public highway agency.

(23) "Purchase." (See "Sell," "sold," and "buy," section 49-120, Idaho Code) [I.C., § 49-117, as added by 1988, ch. 265, § 2, p. 549; am. 1991, ch. 272, § 4, p. 686; am. 1992, ch. 35, § 1, p. 99; am. 1994, ch. 264, § 2, p. 813; am. 1994, ch. 321, § 2, p. 1025; am. 1995, ch. 122, § 1, p. 526; am. 1997, ch. 80, § 6, p. 165; am. 1998, ch. 392, § 4, p. 1197; am. 2001, ch. 332, § 1, p. 1165; am. 2002, ch. 160, § 2, p. 466.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-117 was amended and redesignated as § 49-431 by § 93 of S.L. 1988, ch. 265, effective January 1, 1989.

The reference to section 49-435 in subsection (13) should be to section 49-434, following the amendment of both of those sections by S.L. 2000, chapter 418.

The words enclosed in parentheses ap-

peared in the law as enacted.

Effective Dates. — Section 13 of S.L. 1997, ch. 80 provided that the act would be in full force and effect on and after September 13, 1997.

Section 6 of S.L. 2001, ch. 332 provided that the act should take effect on and after January 1, 2002.

JUDICIAL DECISIONS

ANALYSIS

Proof of financial responsibility.

—Liability limits.

Private property open to the public.

Proof of Financial Responsibility.

—Liability Limits.

Where driver's parent's in negligence action were not alleged to have been directly involved in accident or to be separately liable to plaintiff upon any independent theory of negligence, parents' liability to plaintiff would be that imputed under § 49-2417, which is limited by the definition of "proof of financial responsibility." *Warren v. Furniss*, 124 Idaho 554, 861 P.2d 1219 (Ct. App. 1993).

Private Property Open to the Public.

Parking lot of bar, where defendant was

cited for driving under the influence (DUI), qualifies as "private property open to the public," within the meaning of § 18-8004(1)(a); parking lot of bar was maintained for the use of any members of the public who wanted to patronize the business or for members of the public who did not want to patronize the bar but, for example, wanted to turn their vehicles around. *State v. Gibson*, 126 Idaho 256, 881 P.2d 551 (Ct. App. 1994).

Since there is a close interaction between Title 49 statutes and similar statutory provisions in Title 18, the definition in subsection (16) of this section is applicable to the phrase

“private property open to the public” used in § 18-8004. State v. Knott, 132 Idaho 476, 974 P.2d 1105 (1999).

Cited in: Vincent v. Safeco Ins. Co. of Am., 136 Idaho 107, 29 P.3d 943 (2001).

49-118. Definitions — Q. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former section 49-118, which comprised 1927, ch. 244, § 17, p. 374; am. 1929, ch. 195, § 3, p. 362; I.C.A., § 48-118; am. 1955, ch. 87, § 2, p. 191; am. 1957, ch. 7, § 2, p. 9; am. 1974, ch. 27, § 92, p.

811; am. 1977, ch. 120, § 1, p. 257; am. 1978, ch. 243, § 1, p. 521; am. 1982, ch. 108, § 1, p. 307, was repealed by S.L. 1985, ch. 117, § 2, effective January 1, 1986.

49-119. Definitions — R. — (1) “Racing” means the use of one (1) or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle, or to test the physical stamina or endurance of drivers over long-distance driving routes.

(2) “Radio operator, amateur” means any person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation and holding a conditional class license or higher.

(3) “Railroad” means a carrier of persons or property upon cars operated upon stationary rails.

(4) “Railroad train” means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(5) “Railroad sign” or “signal” means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(6) “Recreational vehicle” means a motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy. It does not include pick-up hoods, shells, or canopies designed, created or modified for occupational usage. School buses or van type vehicles which are converted to recreational use, are defined as recreational vehicles.

(7) “Registered maximum gross weight” means the maximum gross weight established on the registration document as declared by the owner at the time of registration or renewal of registration.

(8) “Registered owner” means any person required to register a vehicle, whether or not a lienholder appears on the title in the records of the department.

(9) “Registration” means the registration certificate or certificates and license plate or plates issued under the laws of this state pertaining to the registration of vehicles.

(10) “Rental utility trailer” means a utility trailer offered for hire to the general public for private or commercial use.

(11) “Rescission of sale.” (See section 28-2-608, Idaho Code)

(12) “Resident” means for purposes of vehicle registration, titling, a driver's license or an identification card, a person whose domicile has been within Idaho continuously for a period of at least ninety (90) days, excluding

a full-time student who is a resident of another state. A person, including a full-time student who has established a domicile in Idaho may declare residency earlier than ninety (90) days for vehicle registration, titling, driver's license and identification card purposes. Establishment of residency shall include a spouse and dependent children who reside with that person in the domicile. A domicile shall not be a person's workplace, vacation or part-time residence.

(13) "Residential district." (See "District," section 49-105, Idaho Code)

(14) "Residential neighborhood" for purposes of this chapter, is an area abutting a highway which is used primarily for nontransient human habitation, parks and churches.

(15) "Revocation of driver's license" means the termination by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the highways, which terminated driver's license or privilege shall not be subject to renewal or restoration except that an application for a new driver's license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in this title.

(16) "Revocation of vehicle registration" means the termination by formal action of the department or as otherwise provided in this title of a person's vehicle registration or, in the case of fleets of vehicles, all vehicle registrations in each fleet operated by a company. Upon revocation, the privileges of operating the vehicles on Idaho highways is terminated until the difficulty that caused the revocation is corrected and an application for new registration is presented and acted upon.

(17) "Ridesharing arrangement" means the nonprofit transportation in a passenger motor vehicle with a seating capacity not exceeding fifteen (15) people including the driver, which is not otherwise used for commercial purposes or as a public conveyance, whereby a fixed group, not exceeding fifteen (15) people including passengers and driver, is transported between their residences or nearby termini, and their places of employment or educational or other institutions or termini near those places, in a single daily round trip where the driver is also on the way to or from his place of employment or education or other institution.

(18) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. The term shall not be interpreted to mean that a highway user is relieved from the duty to exercise reasonable care at all times and from doing everything to prevent an accident. Failure to yield right-of-way shall not be construed as negligence per se or as prima facie evidence of negligence.

(19) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and rights-of-way. [I.C., § 49-119, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 10, p. 151; am. 1989, ch. 310, § 4, p. 769; am. 1989, ch. 403, § 1, p. 987; am. 1991, ch. 100, § 1, p. 221; am. 1991, ch. 211, § 1, p. 498; am. 1992, ch. 35, § 2, p. 99; am. 1992, ch. 115, § 3, p. 345; am. 2001, ch. 355, § 1, p. 1242.]

STATUTORY NOTES

Prior Laws. — Former § 49-119, which comprised 1927, ch. 244, § 18, p. 374; I.C.A., § 48-119, was repealed by S.L. 1985, ch. 117, § 2, effective January 1, 1986.

Amendments. — This section was amended by two 1992 acts — chapter 35, § 2 and chapter 115, § 3, both effective July 1, 1992 — which do not appear to conflict and have been compiled together.

The 1992 amendment, by ch. 35, § 2, added the present subsection (16) and renumbered the subsequent subsections accordingly.

The 1992 amendment, by ch. 115, § 3, substituted the present subsection (12) for one

which read “‘Resident’ means a person who resides within Idaho and who has declared Idaho to be his state of residence. A resident shall be considered in violation of laws relating to vehicle registration, vehicle titling and licensing of drivers, where applicable, subsequent to ninety (90) days of continuous residence within the state.”

Compiler’s Notes. — The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 2 of S.L. 1991, ch. 211 declared an emergency. Approved April 2, 1991.

JUDICIAL DECISIONS

Cited in: State v. Anderson, 134 Idaho 552, 6 P.3d 408 (Ct. App. 2000); Priest v. Landon, 135 Idaho 898, 26 P.3d 1235 (Ct. App. 2001);

State v. Schumacher, 136 Idaho 509, 37 P.3d 6 (Ct. App. 2001).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Crossing highway.
Pedestrians.

Crossing Highway.

Where a driver had stopped at curb cut before entering highway and his view was unobstructed for 1,000 feet one way and 690 feet the other way, and there were no approaching vehicles in view, he had the right to commence crossing the highway. Reed v. Green, 90 Idaho 528, 414 P.2d 445 (1966).

Pedestrians.

The facts and circumstances shown by the evidence failed to reveal any conduct on the

part of deceased constituting an intervening proximate cause of the accident which resulted in her death where she was crossing an intersection at which there was no control signal and defendant motorist was shown to be driving his car in a reckless manner in disregard of the life of decedent, it further being his duty to yield right of way to her and to keep a lookout in the exercise of due care for deceased’s safety. State v. Davidson, 78 Idaho 553, 309 P.2d 211 (1957).

49-120. Definitions — S. — (1) “Saddlemount combination” means a combination of vehicles in which a truck or truck tractor tows one (1), two (2) or three (3) trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. A smaller vehicle mounted completely on the frame of either the first or last vehicle may be used in a saddlemount combination.

(2) “Safety glazing materials” means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) “Safety zone” means the area or space officially set apart within a highway for the exclusive use of pedestrians and which is protected or is so

marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(4) "Salvage pool" means a licensed vehicle dealer engaged primarily in the business of disposing of salvage vehicles, recovered stolen vehicles, or both.

(5) "School bus" means every motor vehicle that complies with the color and identification requirements set forth in the most recent edition of "Minimum Standards for School Buses" and is used to transport children to or from school or in connection with school approved activities and includes buses operated by contract carriers.

(6) "Secretary" means the secretary of transportation of the United States.

(7) "Security agreement." (See section 28-9-102, Idaho Code)

(8) "Security interest." (See section 28-1-201, Idaho Code)

(9) "Sell," "sold," "buy," and "purchase," mean and include, as used in sections 49-2401 through 49-2406, Idaho Code, exchange, barter, gift, and offer or contract to sell or buy.

(10) "Semitrailer." (See "Trailer," section 49-121, Idaho Code)

(11) "Serious traffic violation" means conviction of an offense specified in 49 CFR part 383 and including any subsequent amendments thereto, while operating a commercial motor vehicle, and shall include driving a commercial motor vehicle:

(a) Without obtaining a commercial driver's license; or

(b) Without having a commercial driver's license in the driver's possession; or

(c) Without the proper license class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

(12) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for use by pedestrians.

(13) "Signal." (See "Railroad sign," section 49-119, Idaho Code)

(14) "Skills test" means an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(15) "Slow moving vehicle" means any vehicle not normally operated upon the highways.

(16) "Snow tire." (See "Tires," section 49-121, Idaho Code)

(17) "Sold." (See "Sell," "buy," and "purchase," this section)

(18) "Solid rubber tire." (See "Tires," section 49-121, Idaho Code)

(19) "Special license plate" means a license plate that is made available to the public as a personal alternative to the standard issue license plate. No special program fee shall be charged for the registration or plates issued under sections 49-403, 49-403A, 49-404, 49-405, 49-410, 49-415, 49-415A and 49-415B, Idaho Code.

(20) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including: ditch-digging apparatus, well-boring apparatus and road construction and maintenance

machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes, and earth moving equipment. The term does not include travel trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(21) "Specially constructed vehicle." (See "Vehicle," section 49-123, Idaho Code)

(22) "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(23) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of Canada.

(24) "Stop" means the act of or complete cessation from movement.

(25) "Stopping" means the act of any halting even momentarily of a vehicle.

(26) "Street." (See "Highways," section 49-109, Idaho Code)

(27) "Street rod" means any pre-1949 vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle, and other suspension components. The body will be, or resemble the same as the manufacturer's original issue after its first sale after manufacture.

(28) "Studded tire." (See "Tires," section 49-121, Idaho Code)

(29) "Substandard width lane" means a lane that is too narrow for a bicycle and a motor vehicle to travel safely side by side within the lane.

(30) "Supplemental lot" means a physically separate location owned and maintained by a licensed dealer or manufacturer within the same or adjacent county as the principal place of business which meets all the requirements for a principal place of business.

(31) "Suspension of driver's license" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's driver's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be for a period specifically designated by the department.

(32) "Suspension of vehicle registration" means the temporary withdrawal by formal action of the department or as otherwise provided in this title of a person's vehicle registration or, in the case of fleets of vehicles, all vehicle registrations in each fleet operated by a company. Upon suspension, the privileges of operating the vehicle or vehicles on Idaho highways is terminated until the difficulty that caused the suspension is corrected and notification is provided that the suspension has been lifted. [I.C., § 49-120, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 11, p. 151; am. 1989, ch. 285, § 3, p. 698; am. 1989, ch. 310, § 5, p. 769; am. 1990, ch. 45, § 9, p. 71; am. 1990, ch. 176, § 1, p. 373; am. 1992, ch. 35, § 3, p. 99; am. 1992, ch. 232, § 1, p. 691; am. 1992, ch. 261, § 1, p. 755; am. 1993, ch. 135,

§ 1, p. 330; am. 1996, ch. 371, § 3, p. 1246; am. 2000, ch. 87, § 1, p. 188; am. 2001, ch. 208, § 29, p. 35; am. 2006, ch. 164, § 2, p. 489.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 164, in the introductory paragraph of subsection (11), inserted “and including any subsequent amendments thereto” and “and shall include driving a commercial motor vehicle”; and added subsections (11)(a) to (c).

Compiler's Notes. — Former § 49-120 was amended and redesignated as § 49-432 by § 94 of S.L. 1988, ch. 265.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 47 of S.L.

1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.”

Section 31 of S.L. 2001, ch. 208 provided that the act should take effect on and after July 1, 2001.

JUDICIAL DECISIONS

Length of Suspension.

Read together, subsection (31) of this section and § 49-328(1) recognize the temporary nature of a license suspension for a definite period of time, in conflict with § 49-1208(2)

which mandates that a suspension continue indefinitely unless a driver maintains proof of financial responsibility. *State v. Resendiz-Fortanel*, 131 Idaho 488, 959 P.2d 845 (Ct. App. 1998).

DECISIONS UNDER PRIOR LAW

Discharging Passengers.

Although defendant, who stopped on shoulder of highway with bright lights on to permit a passenger to alight, contended that he was not parked in violation of law that regulated parking since former law which defined stopping, standing or parking excluded vehicles

temporarily stopped to discharge passengers, he would be in violation of former law which imposed the obligation of dimming lights when within 500 feet of oncoming vehicle. *Crane v. Banner*, 93 Idaho 69, 455 P.2d 313 (1969).

49-121. Definitions — T. [Effective until January 1, 2009.] —

(1) “Temporary supplemental lot” means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations. The adjacent county restriction shall not apply if the dealer holds the franchise for the products to be displayed or sold and has approval from a manufacturer for the location where the proposed temporary supplemental lot license will be issued by the department. Nonfranchised dealers shall be permitted to temporarily display or sell their products within a one hundred seventy-five (175) mile radius of their principal place of business, upon approval by the department.

(2) “Tires” means:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) "Traffic lane" or "lane of travel" means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or

emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility trailer," section 49-122, Idaho Code)

(7) "Transitional ownership document" means a document used to perfect a lien against creditors or subsequent purchasers when the primary ownership document is not available and the selling dealer, new security interest holder or their agent, to the best of their knowledge, will not have possession of the primary ownership document, within thirty (30) days, and contains all of the following:

(a) The date of sale or if no sale is involved, the date the contract or security agreement being perfected was signed;

(b) The name and address of each owner of the vehicle;

(c) The name and address of each security interest holder;

(d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;

(e) The vehicle identification number;

(f) The name of the security interest holder or person who submits the transitional ownership document for the security interest holder; and

(g) Any other information the department may require for its records.

(8) "Transportation," for the purposes of chapter 22, title 49, Idaho Code, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(9) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, title 49, Idaho Code, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(10) "Truck" means:

(a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.

(b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.

(c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.

(d) Truck camper. A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(e) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(11) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance. [I.C., § 49-

121, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 408, § 2, p. 996; am. 1992, ch. 35, § 4, p. 99; am. 1992, ch. 232, § 2, p. 691; am. 1993, ch. 334, § 2, p. 1234; am. 1994, ch. 321, § 3, p. 1025; am. 1998, ch. 392, § 5, p. 1197; am. 2000, ch. 31, § 1, p. 56; am. 2000, ch. 320, § 2, p. 1078; am. 2007, ch. 66, § 1, p. 167.]

STATUTORY NOTES

Amendments. — The 2007 amendment, by ch. 66, substituted “thirty (30) days” for “twenty (20) days” in subsection (7).

Compiler’s Notes. — For this section as effective January 1, 2009, see the following section, also numbered § 49-121.

Former § 49-121 was amended and redesignated as § 49-425 by § 87 of S.L. 1988, ch. 265.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 2 of S.L. 2000, ch. 31 provided that the act shall be in full force and effect on and after July 1, 2000.

Section 6 of S.L. 2000, ch. 320 provides that this act shall be in full force and effect on and after January 1, 2001.

49-121. Definitions — T. [Effective January 1, 2009.] — (1) “Temporary supplemental lot” means a location other than the principal place of business, or supplemental lot within the same or adjacent county as the principal place of business, where a licensed dealer may secure a license to conduct the business and is licensed for a period of time not to exceed ten (10) days for a specific purpose such as auto shows, auctions, shopping center promotions, tent sales, etc. Temporary supplemental lots shall meet all local zoning and building codes for the type of business being conducted. The requirements for a principal place of business shall not be applicable to temporary supplemental lot locations. The adjacent county restriction shall not apply if the dealer holds the franchise for the products to be displayed or sold and has approval from a manufacturer for the location where the proposed temporary supplemental lot license will be issued by the department. Nonfranchised dealers shall be permitted to temporarily display or sell their products within a one hundred seventy-five (175) mile radius of their principal place of business, upon approval by the department.

(2) “Tires” means:

(a) Metal. Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material.

(b) Pneumatic. Every tire in which compressed air is designed to support the load.

(c) Snow tire. Every rubber tire with tread design or material embedded in the tire to improve winter traction except studded tires.

(d) Solid rubber. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(e) Studded tire. Every tire with built-in lugs of tungsten carbide or other suitable material designed to contact the road surface for improved winter traction.

(3) “Traffic” means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

(4) “Traffic lane” or “lane of travel” means that portion of the roadway for movement of a single line of vehicles.

(5) "Traffic-control device" means any device, whether manually, electrically or mechanically operated, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(6) "Trailer" means:

(a) General. Every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.

(b) Fifth-wheel trailer. A vehicular unit equipped in the same manner as a travel trailer but constructed with a raised forward section that allows a bi-level floor plan. This style is designed to be towed by a vehicle equipped with a device known as a fifth-wheel hitch, which is typically installed in the bed of a pickup truck.

(c) Fold down camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls, which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters, for recreational, camping or travel use.

(d) Park trailer. A trailer designed to be towed by a motorized vehicle, and of such size and weight as not to require a special highway movement permit. It is designed for seasonal or temporary living quarters and may be connected to utilities necessary for operation of installed fixtures and appliances. It is built on a single permanent chassis and constructed to permit set up by persons without special skills.

(e) Pole trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(f) Semitrailer. Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle.

(g) Travel trailer. A vehicular unit, mounted on wheels designed to provide temporary living quarters for recreational, camping, travel or emergency use and of such size or weight as not to require special highway movement permits when towed by a motorized vehicle.

(h) Utility trailer. (See "Utility trailer," section 49-122, Idaho Code)

(7) "Transitional ownership document" means a document used to perfect a lien against creditors or subsequent purchasers when the primary ownership document is not available and the selling dealer, new security interest holder or their agent, to the best of their knowledge, will not have possession of the primary ownership document, within thirty (30) days, and contains all of the following:

(a) The date of sale or if no sale is involved, the date the contract or security agreement being perfected was signed;

(b) The name and address of each owner of the vehicle;

(c) The name and address of each security interest holder;

(d) If there are multiple security interest holders, the priorities of interest if the security interest holders do not jointly hold a single security interest;

(e) The vehicle identification number;

(f) The name of the security interest holder or person who submits the transitional ownership document for the security interest holder; and

(g) Any other information the department may require for its records.

(8) "Transportation," for the purposes of chapter 22, title 49, Idaho Code, means the movement of any regulated quantity of hazardous material or hazardous waste within, through, or to any destination in this state upon the highways of this state.

(9) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered from a manufacturing, assembling or distributing plant to dealers or sales agents of a manufacturer, except in chapter 22, title 49, Idaho Code, where it means any person who transports a hazardous material or hazardous waste within, through, or to any destination upon the highways of this state.

(10) "Truck" means:

(a) Refuse/sanitation. Any vehicle designed and used solely for the purpose of transporting refuse.

(b) General. Every motor vehicle exceeding eight thousand (8,000) pounds gross weight designed, used or maintained primarily for the transportation of property.

(c) Pickup truck. Every motor vehicle eight thousand (8,000) pounds gross weight or less which is designed, used or maintained primarily for the transportation of property.

(d) Truck camper. A portable unit constructed to provide temporary living quarters for recreational, travel or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and containing at least one (1) of the following facilities: stove; refrigerator or icebox; self-contained toilet; heater or air conditioner; potable water supply including a faucet and sink; separate 110-125 volt electrical power supply; or LP-gas supply. Truck campers originally constructed with an overall length of six (6) feet or longer shall be titled as provided in chapter 5 of this title 49. A truck camper does not include pickup hoods, shells or canopies.

(e) Truck tractor. Every motor vehicle designed and used primarily for drawing other vehicles but not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(11) "True mileage driven" means the mileage of the vehicle as registered by the odometer within the manufacturer's designed tolerance. [I.C., § 49-121, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 408, § 2, p. 996; am. 1992, ch. 35, § 4, p. 99; am. 1992, ch. 232, § 2, p. 691; am. 1993, ch. 334, § 2, p. 1234; am. 1994, ch. 321, § 3, p. 1025; am. 1998, ch. 392, § 5, p. 1197; am. 2000, ch. 31, § 1, p. 56; am. 2000, ch. 320, § 2, p. 1078; am. 2007, ch. 66, § 1, p. 167; am. 2008, ch. 106, § 2, p. 297.]

STATUTORY NOTES

Amendments. — The 2008 amendment, by ch. 106, in subsection (10)(d), in the first sentence, added language beginning “and containing at least (1) of the following facilities,” and added the last two sentences.

Compiler’s Notes. — For this section as

effective until January 1, 2009, see the preceding section, also numbered § 49-121.

Effective Dates. — Section 7 of S.L. 2008, ch. 106 provided “This act shall be in full force and effect on and after January 1, 2009.”

49-122. Definitions — U. — (1) “Unauthorized vehicle” means any vehicle parked or otherwise left on private property without the consent of the person owning or controlling that property.

(2) “United States” means the fifty (50) states and the District of Columbia.

(3) “Unladen weight.” (See “Light weight,” section 49-113, Idaho Code)

(4) “Unregistered vehicle” means a vehicle without current registration on file with the department or with the appropriate agency of another state, unless exempt from registration.

(5) “Unusual noise.” (See “Excessive,” section 49-106, Idaho Code)

(6) “Urban district.” (See “District,” section 49-105, Idaho Code)

(7) “Utility trailer” means a trailer or semitrailer designed primarily to be drawn behind a passenger car or pickup truck for domestic and utility purposes. Utility or domestic use shall include a farm trailer while being used to haul agricultural products or livestock from farm to storage, market or processing plant, or returning therefrom.

(8) “Utility type vehicle (UTV)” means any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in section 67-7101, Idaho Code, designed for and capable of travel over designated unpaved roads, traveling on four (4) or more low-pressure tires of twenty (20) psi or less, maximum width less than seventy-four (74) inches, maximum weight less than two thousand (2,000) pounds, or having a wheelbase of ninety-four (94) inches or less. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in section 49-110(2), Idaho Code, or vehicles otherwise registered under title 49, Idaho Code. [I.C., § 49-122, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 88, § 12, p. 151; am. 1989, ch. 318, § 1, p. 151; am. 2000, ch. 418, § 4, p. 1331; am. 2006, ch. 42, § 5, p. 122.]

STATUTORY NOTES

Amendments. — This section was amended by two 1989 acts — ch. 88, § 12, effective April 1, 1990 and ch. 318, § 1, effective January 1, 1990 — which are compatible and have been compiled together.

The 1989 amendment, by ch. 318, § 1, in present subsection (7) deleted “where laden or maximum gross weight is eight thousand (8,000) pounds or less” following “trailer or semitrailer”.

The 1989 amendment, by ch. 88, § 12, added a new subsection (2) and renumbered the subsequent subsections.

The 2006 amendment, by ch. 42, added subsection (8).

Compiler’s Notes. — Former § 49-122 was amended and redesignated as § 49-449 by § 109 of S.L. 1988, ch. 265.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 70 of S.L. 1989, ch. 88, as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

Section 20 of S.L. 2000, ch. 418 provides: “Sections 2 through 18 of this act shall be in

full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al.,

or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 4 of ch. 418 became effective October 1, 2000.

49-122A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-122A was amended and redesignated as § 49-226 by § 20 of S.L. 1988, ch. 265.

49-123. Definitions — V. — (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.

(a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

(b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.

(2) "Vehicle" means:

(a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.

(c) Commercial vehicle or commercial motor vehicle. For the purposes of chapters 3 and 9 of this title, driver's licenses and vehicle equipment, a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

1. Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit

with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or

2. Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or

3. Is designed to transport sixteen (16) or more people, including the driver; or

4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

(d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.

(e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.

(f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

(g) Motor vehicle. Every vehicle which is self-propelled, and for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section 49-107, Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under title 49, Idaho Code.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Neighborhood electric vehicle (NEV). A self-propelled, electrically-powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(j) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(k) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(l) Rebuilt salvage vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "rebuilt salvage" brand is required to be added to the title.

(m) Reconstructed vehicles. Vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

[(n)](m) Replica vehicle. A vehicle made to replicate any passenger car or truck previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

[(o)](n) **Salvage vehicle.** Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle, such vehicle shall be considered to be a salvage vehicle.

[(p)](o) **Specially constructed vehicle.** Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer. This includes:

1. A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or
2. A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or
3. A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or
4. A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model. All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

[(q)](p) **Total loss vehicle.** Every vehicle that is deemed to be uneconomical to repair. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

(3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)

(4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)

(5) "Vessel." (See section 67-7003, Idaho Code)

(6) "Veteran." (See section 65-502, Idaho Code)

(7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the

commission of an infraction involving a moving traffic infraction, except bicycle infractions. [I.C., § 49-123, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 285, § 4, p. 698; am. 1989, ch. 310, § 6, p. 769; am. 1989, ch. 318, § 2, p. 817; am. 1990, ch. 45, § 10, p. 71; am. 1990, ch. 295, § 1, p. 815; am. 1991, ch. 272, § 5, p. 686; am. 1991, ch. 288, § 2, p. 739; am. 1992, ch. 115, § 4, p. 345; am. 1993, ch. 376, § 1, p. 1377; am. 1994, ch. 296, § 1, p. 933; am. 1995, ch. 122, § 2, p. 526; am. 1996, ch. 308, § 1, p. 1009; am. 1997, ch. 355, § 1, p. 1047; am. 1999, ch. 298, § 1, p. 746; am. 2000, ch. 469, § 110, p. 1450; am. 2002, ch. 160, § 3, p. 466; am. 2005, ch. 183, § 3, p. 558; am. 2006, ch. 51, § 18, p. 145; am. 2008, ch. 84, § 1, p. 215; am. 2008, ch. 198, § 4, p. 636; am. 2008, ch. 330, § 2, p. 904.]

STATUTORY NOTES

Cross References. — EMS bureau of Idaho department of health and welfare, § 56-1011 et seq.

Amendments. — The 2006 amendment, by ch. 51, substituted “65-502” for “65-509” in subsection (6).

This section was amended by three 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 84, subdivided and rewrote former paragraph (2)(l), which was the definition for “Reconstructed or repaired vehicle,” as present paragraphs (2)(l) and (2)(m); redesignated the subsequent paragraphs in subsection (2); in subsection (2)(n), twice deleted “motor” preceding the first two occurrences of “vehicle”; and in subsection (2)(p), deleted “due to scrapping, dismantling or destruction” from the end of the first sentence.

The 2008 amendment, by ch. 198, rewrote subsection (2)(g), which formerly read: “Motor vehicle. Every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs”; added subsection (2)(m) and made related redesignations; and added the last sentence in subsection (2)(o)4.

The 2008 amendment, by ch. 330, in the introductory paragraph in subsection (2)(c), inserted “and 9” and “and vehicle equipment.”

Compiler’s Notes. — Former § 49-123 was amended and redesignated as subsection (8) of § 49-202 by § 5 of S.L. 1988, ch. 265.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 9 of S.L. 1989, ch. 285 provided that the act would become effective January 1, 1990.

Section 8 of S.L. 1989, ch. 318 provided that the act would become effective January 1, 1990.

Section 47 of S.L. 1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver’s licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.”

Section 3 of S.L. 1993, ch. 376 declared an emergency. Approved April 1, 1993.

Section 6 of S.L. 1999, ch. 298 provided that the act shall be in full force and effect on and after January 1, 2000.

Section 4 of S.L. 2008, ch. 330 declared an emergency. Approved April 1, 2008.

JUDICIAL DECISIONS

ANALYSIS

Vehicle.

—Snowmobiles.

Vehicle.

—Snowmobiles.

Since a snowmobile is a specific type of motor vehicle, permitted under certain circumstances to be operated on highways or roadways, it should be treated as a motor

vehicle for purposes of the application of § 18-8004. *State v. Barnes*, 133 Idaho 378, 987 P.2d 290 (1999).

Cited in: *State v. Doe* (In re Doe), 139 Idaho 1, 72 P.3d 547 (Ct. App. 2003).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Commercial trucks.
Dog-drawn wagon.
Potato digger.
Push carts.

Commercial Trucks.

Exception of motor truck owned and operated by person engaged in farming or stock-raising, and employing truck for transporting products of husbandry, from classification of commercial truck, was not arbitrary. *Curtis v. Pfost*, 53 Idaho 1, 21 P.2d 73 (1933).

Legislative classification of motor truck operated for transportation of merchandise or raw products for hire as commercial truck, and requiring payment of fee fifty per cent in excess of fees for similar trucks, not operated for hire, was not unconstitutional as unreasonable or discriminatory. *Curtis v. Pfost*, 53 Idaho 1, 21 P.2d 73 (1933).

Legislative exclusion of trucks used exclusively within boundaries of incorporated city or village, or within three miles of boundaries thereof from which delivery was made, from classification of commercial trucks, was not unconstitutional as arbitrary. *Curtis v. Pfost*, 53 Idaho 1, 21 P.2d 73 (1933).

Dog-Drawn Wagon.

Issue as to whether a dog drawn wagon is a vehicle is for the court not the jury. *Jackman*

v. Hamersley, 72 Idaho 301, 240 P.2d 829 (1952).

A dog drawn wagon is not a vehicle. *Jackman v. Hamersley*, 72 Idaho 301, 240 P.2d 829 (1952).

Potato Digger.

A potato digger was not a "vehicle" within the meaning of that term in the former law which defined "vehicle" and "farm tractor," so as to be required to display a statutory yellow or red light or reflector visible for a distance of not less than 500 feet in the rear. *Turner v. Purdum*, 77 Idaho 130, 289 P.2d 608 (1955), overruled on other grounds, *Schaub v. Linehan*, 92 Idaho 332, 442 P.2d 742 (1968).

Push Carts.

Push cart was not a "vehicle" within statutes requiring all vehicles to carry rear light in nighttime, and whether owner of push cart, who was struck from rear by taxicab in nighttime, was contributorily negligent in not having light on rear of the cart, is for the jury. *Franklin v. Wooters*, 55 Idaho 619, 45 P.2d 804 (1935).

RESEARCH REFERENCES

A.L.R. — What constitutes "motor vehicle" within meaning of National Motor Vehicle

Theft Act (Dyer Act) (18 USCS §§ 2311-2313). 15 A.L.R. Fed. 919.

49-124. Definitions — W. — (1) "Wheelchair, motorized." (See "Motorized wheelchair," section 49-114, Idaho Code)

(2) "Wholesaler" means a dealer who sells used vehicles to Idaho dealers.

(3) "Work zone" means a construction or maintenance area that is located on or adjacent to a highway and marked by appropriate warning signs.

(4) "Wrecker" means a motor vehicle designed and used primarily for towing other vehicles that may be disabled. A wrecker engaged in a motor vehicle recovery operation and which is blocking part or all of one (1) or more lanes of traffic shall be designated an emergency vehicle. [I.C., § 49-124, as added by 1988, ch. 265, § 2, p. 549; am. 1989, ch. 310, § 7, p. 769; am. 2005, ch. 83, § 2, p. 296.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-124 was amended and redesignated as subsections (9) — (15) of § 49-202 by § 5 of S.L. 1988, ch. 265.

The words enclosed in parentheses so appeared in the law as enacted.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should

take effect January 1, 1989.

Section 34 of S.L. 1989, ch. 310 declared an emergency and provided that the act would

become effective retroactively to January 1, 1989. Approved April 5, 1989.

49-125. Definitions — X. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-125 was amended and redesignated as § 49-456 by § 114 of S.L. 1988, ch. 265.

49-125A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-125A was amended and redesignated as § 49-433 by § 95 of S.L. 1988, ch. 265. Section 49-533 was subsequently repealed by S.L. 1998, ch. 265 § 2, effective July 1, 1998.

49-126. Definitions — Y. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-126 was amended and redesignated as § 49-402 by § 71 of S.L. 1988, ch. 265.

49-126A. Powers of department relating to registration period. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-126A, as added by 1969, ch. 70, § 5, p. 214, was repealed by S.L. 1988, ch. 265, § 1, effective January 1, 1989.

49-126B. Tax on gaseous motor fuel. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-126B, as added by 1982, ch. 268, § 1, p. 699, was repealed by S.L. 1983, ch. 158, § 1. This section was also repealed by S.L. 1983, ch. 91, § 1, effective July 1, 1983. However, ch. 91 was repealed by § 2 of S.L. 1983 (Ex. Sess.), ch. 1, effective July 1, 1983.

49-127. Definitions — Z. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-127 was amended and redesignated as § 49-434 by § 96 of S.L. 1988, ch. 265.

49-127A. Additional use fees. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-127A, as added by 1971, ch. 184, § 2, p. 859; am. 1972, ch. 290, § 1, p. 730; am. 1981, ch. 343, § 2, p. 707; am. 1983, ch. 158, § 3, p. 436, was repealed by S.L. 1984, ch. 195, § 1.

Another former § 49-127A, which comprised I.C., § 49-127A, as added by 1965, ch. 157, § 3, p. 304; am. 1967 (1st E. S.), ch. 4, § 3, p. 12, was repealed by S.L. 1971, ch. 184, § 1, p. 859.

49-127B. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Section 49-127B was amended and and redesignated as § 49-435 by § 97 of S.L. 1988, ch. 265.

49-127C. Authority to enter agreements. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-127C, as added by 1978,

ch. 123, § 1, p. 279, was repealed by S.L. 1988, ch. 265, § 1, effective January 1, 1989.

49-128 — 49-134A. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-128 — 49-134A were amended and redesignated as §§ 49-437, 49-201(5), 49-438, 49-401, 49-426, by §§ 98, 99, 4, 113, 100, 70, 88, 75 of

S.L. 1988, ch. 265, respectively. Sections 49-436, 49-453, and 49-406 were subsequently repealed.

49-134B. Exemptions from operating expenses — Idaho classic motorcycle. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised S.L. 1980, ch. 80, § 1, p. 138 was

repealed by S.L. 1989, ch. 310, § 13, effective January 1, 1989.

49-135. Dealers' plates — Fees — Improper use. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1927, ch. 244, § 28, p. 374; am. 1929, ch. 195, § 5, p. 462; I.C.A., § 48-130; am. 1935, ch. 30, §§ 1, 2, p. 53; am. 1935, ch. 152, § 1, p. 369; am. 1939, ch. 79, § 1, p. 134;

am. 1955, ch. 87, § 3, p. 191; am. 1965, ch. 290, § 20, p. 759; am. 1967, ch. 428, § 4, p. 1245; am. 1977, ch. 48, § 1, p. 89, was repealed by S.L. 1985, ch. 117, § 2, effective January 1, 1986.

49-136 — 49-142. License requirements, applications, denials, suspension, revocation — Plates — Fees. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — The following sections were repealed by S.L. 1982, ch. 43, § 1: I.C., § 49-136, as added by 1981, ch. 329, § 1, p. 688. I.C., § 49-137, as added by 1981, ch. 329, § 2, p. 688. I.C., § 49-138, as added by 1981, ch. 329, § 3, p. 688. I.C., § 49-139 as added by 1981, ch. 329, § 4, p. 688. I.C., § 49-140, as added by 1981, ch. 329, § 5, p. 688. I.C., § 49-141, as added by 1981, ch. 329, § 6, p. 688. I.C., § 49-142, as added by 1981, ch. 329, § 7, p. 688.

49-143 — 49-146. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-143 — 49-146 were amended and redesignated as §§ 49-227 — 49-230 by §§ 21-24 of S.L. 1988, ch. 265.

49-147. Penalty for misdemeanor. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1927, ch. 244, § 33, p. 374; am. 1929, ch. 195, § 6, p. 362; I.C.A., § 48-135; am. 1979, ch. 93, § 3, p. 224; am. 1984, ch. 84, § 4, p. 158; am. 1984, ch. 235, § 1, p. 564; am. 1985, ch. 36, § 5, p. 70; am. 1987, ch. 134, § 2, p. 266, was repealed by S.L. 1988, ch. 265, § 1, effective January 1, 1989.

49-148. Penalty for felony. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section which comprised S.L. 1927, ch. 244, § 34, p. 374; I.C. A., § 48-136 regarding the punishment for a felony was repealed by S.L. 1979, ch. 93, § 4.

49-149. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-149 was amended and redesignated as § 49-239 by § 31 of S.L. 1988, ch. 265.

49-150 — 49-154. Uniformity of interpretation — Short title — Separability — Repeal — Time of taking effect. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1927, ch. 244, §§ 36-39, p. 374; I.C.A., §§ 48-137 — 48-141, were repealed by S.L. 1988, ch. 265, § 1, effective January 1, 1989.

49-155. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-155 was amended and redesignated as § 49-422 by § 86 of S.L. 1988, ch. 265.

49-156. Application for specific numbered plates — Optional with assessor — Fee. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-156, as added by 1967, ch. 428, § 5, p. 1245; am. 1972, ch. 373, § 1, p. 1094, was repealed by S.L. 1988, ch. 265, § 1, effective January 1, 1989.

49-157 — 49-159. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-157 was amended and redesignated as § 49-450 by § 110 of S.L. 1988, ch. 265. of S.L. 1988, ch. 201, effective July 1, 1988. Section 49-451 was subsequently repealed by S.L. 1989, ch 310, § 21.

Former § 49-158 was amended and redesignated as § 49-451 by § 111 of S.L. 1988, ch. 265. Section 49-158 was also repealed by § 1 Former § 49-159 was amended and redesignated as § 49-452 by § 112 of S.L. 1988, ch. 265.

CHAPTER 2**GENERAL****SECTION.**

- 49-201. Duties of board.
- 49-201A. [Repealed.]
- 49-201B. Base state agreements.
- 49-202. Duties of department.
- 49-203. Prohibition on release and use of personal information contained in motor vehicle and driver records.
- 49-203A. Rules, policies and waiver procedures on disclosure of personal information.
- 49-204. Misrepresentation to obtain records.
- 49-205. Duties of local officers.
- 49-206. Provisions uniform throughout state.
- 49-207. Municipal registration prohibited — Power to enact regulatory ordinances not abolished.
- 49-208. Powers of local authorities.
- 49-209. Local traffic-control devices.
- 49-210. Authority to restrict pedestrian crossings.
- 49-211. Authority to close unmarked crosswalks.
- 49-212. Authority for stop signs and yield signs.
- 49-213. Parking spaces for persons with a

SECTION.

- disability — Marking and signing — Enforcement.
- 49-214 — 49-216. [Reserved.]
- 49-217. Regulations relative to school buses.
- 49-218. Designation of authorized emergency vehicles.
- 49-219. [Repealed.]
- 49-220. [Reserved.]
- 49-221. Removal of traffic hazards.
- 49-222. Rights of owners of real property.
- 49-223. Sale of nonconforming traffic-control devices.
- 49-224. [Reserved.]
- 49-225. [Reserved.]
- 49-226. Filing false affidavit of theft or embezzlement of a vehicle.
- 49-227. Operating vehicle without owner's consent.
- 49-228. Receiving or transferring stolen vehicles.
- 49-229. Injuring vehicle.
- 49-230. Tampering with vehicle.
- 49-231. Farm implements — Purchasing or selling when identifying number altered or defaced a felony.
- 49-231A. [Amended and Redesignated.]

SECTION.

- 49-232. Fraudulent removal or alteration of numbers prohibited.
 49-233, 49-234. [Reserved.]
 49-235. Enforcement by peace officers.
 49-236. Penalties.
 49-237. Records to be sent to department.
 49-238. Charging violations and rule in civil actions.

SECTION.

- 49-239. Disposition of fines, penalties, forfeitures and fees.
 49-240. Certain circumstances for forfeiture of bond for traffic offenses.
 49-241, 49-242. [Reserved.]
 49-243. Severability.
 49-244 — 49-246. [Amended and Redesignated.]

49-201. Duties of board. — (1) With the exception of requirements for sections 49-217 and 49-218 and chapters 6 and 9, title 49, Idaho Code, which shall be the responsibility of the director of the Idaho state police, and section 49-447, Idaho Code, which shall be the responsibility of the director of the department of parks and recreation, the board shall adopt and enforce administrative rules and may designate agencies or enter into agreements with private companies or public entities as may be necessary to carry out the provisions of this title. It shall also provide suitable forms for applications, registration cards, vehicle licenses, and all other forms requisite for the purpose of the provisions of this title, and shall prepay all transportation charges.

(2) The board may enter into agreements, compacts or arrangements with other jurisdictions on behalf of Idaho for the purpose of conforming procedures for proportional registration of commercial vehicles and other types of reciprocal agreements. Copies of agreements, compacts or arrangements shall be placed on file in the department and the board shall, as to all filings and adoption, conform with the provisions of chapter 52, title 67, Idaho Code. The board may approve, on a case by case basis, exemption from operating fees for private nonprofit entities who are bringing public interest programs into the state. These entities may not be in competition with companies who transport goods and services for hire.

(3) The board shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this title for use upon highways within the state. The uniform system shall correlate with, and so far as possible, conform to the system set forth in the most recent edition of the manual on uniform traffic control devices for streets and highways and other standards issued or endorsed by the federal highway administrator.

(4) Whenever the board shall determine upon the basis of an engineering and traffic investigation that any maximum speed is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway or interstate highway system, the board may determine and declare a reasonable and safe maximum limit, thereat, not exceeding a maximum limit of seventy-five (75) miles per hour on interstate highways and sixty-five (65) miles per hour on state highways, which shall be effective when appropriate signs giving notice are erected. The speed limit may be declared to be effective at all times or at the times as indicated upon the signs. Differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be

effective when posted upon appropriate fixed or variable signs. The authority of the board to establish speed limits on state highways pursuant to this section does not restrict the authority of the duly elected officials of an incorporated city acting in the capacity of a local authority to establish lower speed limits for portions of state highways, excluding controlled access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city, for the purpose of enhancing motorist and pedestrian safety.

(5) The board shall adopt and enforce rules as may be consistent with and necessary to determine the classification of and the basis on which fees shall be computed. [1927, ch. 244, § 2, p. 374; I.C.A., § 48-102; am. 1951, ch. 119, § 2, p. 374; am. 1953, ch. 261, § 2, p. 425; I.C., § 49-127c, as added by 1953, ch. 261, § 14, p. 425; am. 1967, ch. 175, § 1, p. 583; am. 1974, ch. 27, §§ 85, 97, p. 811; I.C., § 49-584, as added by 1977, ch. 152, § 2, p. 337; I.C., § 49-682, as added by 1977, ch. 152, § 3, p. 337; am. 1982, ch. 95, §§ 2, 13, p. 185; am. 1987, ch. 280, § 2, p. 590; am. and redesisg. 1988, ch. 265, § 4, p. 549; am. 1990, ch. 45, § 11, p. 71; am. 1992, ch. 35, § 5, p. 99; am. 1993, ch. 299, § 1, p. 1100; am. 1996, ch. 270, § 2, p. 872; am. 1997, ch. 155, § 2, p. 438; am. 2000, ch. 469, § 111, p. 1450.]

STATUTORY NOTES

Prior Laws. — Former § 49-201, which comprised 1923, ch. 63, § 1, p. 70; am. 1925, ch. 177, § 1, subds. 1-7, p. 315; I.C.A., § 48-201; am. 1982, ch. 95, § 24, p. 185, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — Section 4 of S.L. 1988, ch. 265 amended and redesignated §§ 49-102, 49-130, 49-584, and 49-682 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should

take effect January 1, 1989.

Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

ANALYSIS

Speed limits.

—Jury instructions.

Traffic control manual.

Speed Limits.

—Jury Instructions.

Instruction based on subsection (2) of § 49-654 prejudiced plaintiff's rights and was grounds for granting a new trial; instruction made it negligence per se for plaintiff to be driving in excess of thirty five miles per hour when the accident happened even though the speed limit should have been forty five miles per hour based on brooming by contractor. *Dabestani ex rel. Dabestani v. Bellus*, 131 Idaho 542, 961 P.2d 633 (1998).

Traffic Control Manual.

Section of the Manual on Uniform Traffic Control Devices, limiting the placement of stop signs at railroad crossings to those crossings found to have four specified characteristics, was not authorized by code provisions in effect at that time, was beyond the authority of the Idaho transportation board, and was, therefore, void. *Curtis v. Canyon Hwy. Dist. No. 4*, 122 Idaho 73, 831 P.2d 541 (1992), overruled on other grounds, *Lawton v. City of Pocatello*, 126 Idaho 454, 886 P.2d 330 (1994).

Cited in: Bingham v. Idaho Dep't of Transp., 117 Idaho 147, 786 P.2d 538 (1989).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Evidence as to speed.
Failure to comply.
Judicial notice.
Marked crosswalks.

Evidence as to Speed.

Defendant alleged he was prejudiced by the admission of the exhibit showing that the state board of highway directors (now transportation board) fixed and designated 35 miles per hour as the reasonable, safe, prima facie speed limit upon a certain portion of U.S. Highway 30. He could not make a showing of prejudice because he did not subpoena a witness to establish his contention, and because the section of the highway where the collision occurred was in an "urban district" where 35 miles per hour was the prima facie speed limit. *State v. Wendler*, 83 Idaho 213, 360 P.2d 697 (1961).

Failure to Comply.

Since former law provided for a uniform system of traffic controls to be incorporated in a manual, which was done and which was specifically adopted by the Idaho state department of highways, and former law provided that local authorities must comply with state requirements, such manual had the force of law and failure to comply with it was negligence per se. *Jorstad v. City of Lewiston*, 93 Idaho 122, 456 P.2d 766 (1969), overruled on other grounds, *Independent Sch. Dist. v. Callister*, 97 Idaho 59, 539 P.2d 987 (1975).

Judicial Notice.

The court would take judicial notice of the order of board of highway directors (now

transportation board) fixing and designating 35 miles per hour as the reasonable, safe, prima facie speed limit on certain portion of U.S. highway 30, and of the fact that the section of the highway to which it relates was a part of the "state highway system." *State v. Wendler*, 83 Idaho 213, 360 P.2d 697 (1961).

The law presumes that the board of highway directors (now transportation board) discharged its duty lawfully and in the manner prescribed by statute in fixing and designating 35 miles per hour as the reasonable, safe, prima facie speed limit upon that portion of U.S. Highway 30, where the collision occurred. *State v. Wendler*, 83 Idaho 213, 360 P.2d 697 (1961).

Marked Crosswalks.

An instruction defining "marked crosswalk" according to the Manual on Uniform Traffic Control Devices inconsistent with the statute or according to the practice of the highway department inconsistent with the manual was not ground for reversing where there was no marked crosswalk in the area where the pedestrian plaintiff was crossing the street. *Pierce v. Barenberg*, 91 Idaho 354, 421 P.2d 149 (1966).

49-201A. Multijurisdictional agreement for collection of use fee — Rules. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-201A, as added by 1994, ch. 311, § 1, p. 977, was repealed by S.L. 2000, ch. 418, § 5, effective October 1, 2000.

49-201B. Base state agreements. — Pursuant to federal law, the Idaho transportation department is hereby authorized to enter into reciprocal agreements with the regulatory agencies of other states having jurisdiction and authority over motor carriers to provide for base state agreements in which the registration of interstate carriers operating in participating states may be accomplished by registration in one (1) base state. Carriers electing to register under base state agreements shall be

subject to the jurisdiction and authority of the Idaho transportation department to the same extent as they would if they did not participate in the base state agreement. The fees authorized by federal law, or such lesser fees as the participating states agree to, may be collected, and the base state may require further filings of certificates of insurance, surety bonds, et cetera, to show the carrier's qualifications to operate. Participating carriers shall register their authority directly with the transportation department and not with other state or local agencies. [I.C., § 49-201B, as added by 1999, ch. 383, § 5, p. 1051.]

49-202. Duties of department. — (1) All registration and driver's license records in the office of the department shall be public records and open to inspection by the public during normal business hours, except for those records declared by law to be for the confidential use of the department, or those records containing personal information subject to restrictions or conditions regarding disclosure. If the department has contracted for a service to be provided by another entity, an additional fee shall be charged by that contractor whether the service is rendered during normal business hours, other than normal business hours or on weekends.

(2) In addition to other fees required by law to be collected by the department, the department shall collect the following:

- (a) For certifying a copy of any record pertaining to any vehicle license, any certificate of title, or any driver's license \$8.00
- (b) For issuing every Idaho certificate of title \$8.00
- (c) For furnishing a duplicate copy of any Idaho certificate of title \$8.00
- (d) For issuance or transfer of every certificate of title on a new or used vehicle or other titled vehicle in an expedited manner (rush titles), in addition to any other fee required by this section \$15.00
- (e) For recording a transitional ownership document, in addition to any other fee required by this section \$15.00
- (f) For furnishing a replacement of any receipt of registration . . . \$3.00
- (g) For furnishing copies of registration or ownership of motor vehicles or driver's license records, per vehicle registration, accident report records, title or per driver's license record \$4.00
- Additional contractor fee, not to exceed \$4.00
- (h) For services in searching files of vehicle or other registrations, vehicle titles, or driver's licenses per hour \$10.00
- (i) Placing "stop" cards in vehicle registration or title files, each \$12.00
- (j) For issuance of an assigned or replacement vehicle identification number (VIN) \$10.00
- (k) For a vehicle identification number (VIN) inspection whether conducted by a city or county peace officer or any other peace officer or designated agent of the state of Idaho, per inspection \$3.00
- (l) For all replacement registration stickers, each \$1.00
- (m) For issuing letters of temporary vehicle clearance to Idaho-based motor carriers \$10.00

- (n) For all sample license plates, each \$12.00
- (o) For filing release of liability statements \$2.00
- (p) For safety and insurance programs for each vehicle operated by a motor carrier \$2.00

A lesser amount may be set by rule of the board.

(3) The fees required in this section shall not apply when the service is furnished to any federal, state, county or city peace officer when such service is required in the performance of their duties as peace officers.

(4) The department may enter into agreements with private companies or public entities to provide the services for which a fee is collected in subsection (2)(g) of this section. Such private contractor shall collect the fee prescribed and remit the fee to the department. The contractor shall also collect and retain the additional fee charged for his services.

(5)(a) The department shall pay three dollars (\$3.00) of the fee collected by a county assessor or other agent of the department as provided in subsection (2)(a) through (f) of this section, and four dollars (\$4.00) as provided in subsection (2)(g) of this section, to the county assessor or sheriff of the county or agent collecting such fee, which shall be deposited with the county treasurer and credited to the county current expense fund. The remainder of the fees collected as provided in that subsection shall be paid by the department to the state treasurer and placed in the state highway fund.

(b) The fee collected under subsection (2)(k) of this section for a VIN inspection shall be placed in the city general fund if conducted by a city peace officer, in the county current expense fund if conducted by a county peace officer, shall be retained by the special agent authorized to perform the inspection, or paid to the state treasurer and placed to the credit of the Idaho state police if conducted by the Idaho state police or in the state highway fund if conducted by the department.

(c) The fee collected under subsection (2)(o) of this section for filing release of liability statements shall be retained by the county assessor of the county collecting such fee, and shall be deposited with the county treasurer and credited to the county current expense fund.

(d) The fee in subsection (2)(m) of this section shall not apply when the Idaho-based motor carrier or its representative obtains and prints the document using internet access.

(e) The fee collected under subsection (2)(p) of this section for motor carriers shall be paid by the department to the state treasurer and placed in the state highway fund. The director and the director of the Idaho state police shall jointly determine the amount to be transferred from the state highway fund to the law enforcement fund for motor carrier safety programs conducted by the Idaho state police pursuant to the provisions of section 67-2901A, Idaho Code.

(6) The department as often as practicable may provide to law enforcement agencies the record of suspensions and revocations of driver licenses via the Idaho law enforcement telecommunications system (ILETS).

(7) The department shall provide the forms prescribed in chapter 5 of this title, shall receive and file in its office in Ada county, all instruments

required in chapter 5 of this title to be filed with the department, shall prescribe a uniform method of numbering certificates of title, and maintain in the department indices for such certificates of title. All indices shall be by motor or identification number and alphabetical by name of the owner.

(8) The department shall file each registration received under a distinctive registration number assigned to the vehicle and to the owner thereof.

(9) The department shall not renew a driver's license or identification card when fees required by law have not been paid or where fees for past periods are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(10) The department shall not grant the registration of a vehicle when:

(a) The applicant is not entitled to registration under the provisions of this title; or

(b) The applicant has neglected or refused to furnish the department with the information required in the appropriate form or reasonable additional information required by the department; or

(c) The fees required by law have not been paid, or where fees for past registration periods are due, owing and unpaid including insufficient fund checks.

(11) The department or its authorized agents have the authority to request any person to submit to medical, vision, highway, or written examinations, to protect the safety of the public upon the highways. The department or its authorized agents may exercise such authority based upon evidence which may include, but is not limited to, observations made.

(12) The department shall revoke the registration of any vehicle:

(a) Which the department shall determine is unsafe or unfit to be operated or is not equipped as required by law;

(b) Whenever the person to whom the registration card or registration plate has been issued shall make or permit to be made any unlawful use of the same or permit their use by a person not entitled thereto;

(c) For any violation of vehicle registration requirements by the owner or operator in the current or past registration periods;

(d) Whenever a motor carrier requests revocation, or whenever an interstate carrier's federal operating authority has been revoked;

(e) For failure of the owner or operator to file the reports required or nonpayment of audit assessments or fees assessed against the owner by the department or the state tax commission pursuant to audit under the provisions of section 49-439, Idaho Code;

(f) Identified by any city or county administering a program established by ordinance for the inspection and readjustment of motor vehicles (which program is part of an approved state implementation plan adopted by both the state and federal governments under 42 U.S.C. section 7410) as having failed to comply with an ordinance requiring motor vehicle emission inspection and readjustment; provided that no vehicle shall be identified to the department under this subsection (f) unless:

(i) The city or county certifies to the department that the owner of the motor vehicle has been given notice and had the opportunity for a hearing concerning compliance with the ordinance and has exhausted

all remedies and appeals from any determination made at such hearing; and

(ii) The city or county reimburses the department for all direct costs associated with the registration revocation procedure.

(13) The department shall not reregister or permit a vehicle to operate on a special trip permit until all fees, penalties and interest have been paid.

(14) The department shall institute educational programs, demonstrations, exhibits and displays.

(15) The department shall cancel a driver's license or identification card when fees required by law have not been paid or where fees are due, owing and unpaid including insufficient fund checks, until those fees have been paid.

(16) The department shall examine persons and vehicles by written, oral, vision and skills tests without compulsion except as provided by law.

(17) The department shall employ expert and special help as needed in the department.

(18) The department shall compile accident statistics and disseminate information relating to those statistics.

(19) The department shall cooperate with the United States in the elimination of road hazards, whether of a physical, visual or mental character.

(20) The department shall place and maintain traffic-control devices, conforming to the board's manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this title or to regulate, warn, or guide traffic. No local authority shall place or maintain any traffic-control device upon any highway under the jurisdiction of the department except by the latter's permission, except where the duly elected officials of an incorporated city have established speed limits lower than those set by the department on the portion of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city. The placement and maintenance of such a traffic-control device by a local authority shall be made according to the board's manual and specifications for a uniform system of traffic-control devices.

(21) The department may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall find that the structure cannot with safety to itself withstand vehicles traveling at a speed otherwise permissible under this title, shall determine and declare the maximum speed of vehicles which the structure can safely withstand, and shall cause or permit suitable signs stating the maximum speed to be erected and maintained before each end of the structure.

(22) Whenever the department shall determine on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway impede the normal and reasonable movement of traffic, the department may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs, except in cases where the

duly elected officials of an incorporated city have established speed limits lower than those set by the department on portions of state highways, excluding controlled-access and interstate highways, that pass through residential, urban or business districts within the jurisdiction of the incorporated city.

(23) The department shall regulate or prohibit the use of any controlled-access highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(24) The department shall erect and maintain traffic-control devices on controlled-access highways on which any prohibitions are applicable.

(25) Wherever a highway crosses one (1) or more railroads at grade, the department or local authorities within their respective jurisdictions shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when in the determination of public highway agencies the existence of stop signs at a given crossing would constitute a greater hazard than their absence based on a recognized engineering study.

Nothing in this subsection shall be construed as granting immunity to any railroad company as to liability, if any, for an accident which might occur at a crossing where stop signs are erected and in place, but liability, if any, shall be determined as provided by law. Liability on the part of governmental authorities on account of absence of any stop sign at a crossing shall be determined as provided by law.

(26) The department and local authorities are authorized to determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left side of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of those zones and when signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle shall obey those directions.

(27) The department and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this title or title 40, Idaho Code.

(28) The department and local highway authorities within their respective jurisdictions may place official traffic-control devices prohibiting, limiting or restricting the stopping, standing or parking of vehicles on any highway where such stopping, standing or parking is dangerous to those using the highway or where the stopping, standing or parking of vehicles unduly interferes with the free movement of traffic thereon.

(29) On any informational material printed after July 1, 1995, by or at the order of the department and distributed to counties, school districts or individuals for the purpose of assisting a person to successfully pass a driver's license test, the department shall include material about the state's

open range law and responsibilities, liabilities and obligations of drivers driving in the open range. [1927, ch. 244, §§ 4, 5, 10, 22, 23, p. 374; am. 1929, ch. 195, § 2, p. 366; ICA §§ 48-104, 48-105, 48-110, 48-123, 48-124, 48-402e; am. 1939, ch. 195, § 1, p. 372; am. 1941, ch. 101, § 1, p. 181; added 1941, ch. 144, § 3, p. 282; am. 1943, ch. 43, § 2, p. 86; am. 1951, ch. 119, § 8, p. 273; am. 1953, ch. 156, § 1, p. 251; am 1955, ch. 58, §§ 2, 3, p. 108; am. 1955, ch. 71, §§ 2, 5, p. 138; am. 1961, ch. 263, § 1, p. 463; am. 1963, ch. 160, § 13, p. 463; am. 1965, ch. 49, § 1, p. 79; am. 1974, ch. 27, §§ 86, 94, p. 811; am. 1976, ch. 101, § 1, p. 423; added 1977, ch. 152, §§ 2, 3, p. 337; am. 1978, ch. 122, § 1, p. 277; am. 1981, ch. 204, § 1, p. 367; am. 1982, ch. 95, §§ 3, 9, 62, p. 185; am. 1982, ch. 353, § 23, p. 874; am. 1984, ch. 149, § 1, p. 351; am. 1984, ch. 195, § 7, p. 445; am. and redesi. 1988, ch. 265, § 5, p. 549; am. 1989, ch. 88, § 13, p. 151; am. 1989, ch. 310, § 8, p. 769; am. 1990, ch. 45, § 12, p. 71; am. 1991, ch. 143, § 1, p. 336; am. 1991, ch. 214, § 1, p. 511; am. 1992, ch. 35, § 6, p. 99; am. 1992, ch. 115, § 5, p. 345; am. 1992, ch. 173, § 1, p. 542; am. 1993, ch. 299, § 2, p. 1100; am. 1994, ch. 315, § 1, p. 1001; am. 1995, ch. 116, § 26, p. 386; am. 1995, ch. 209, § 1, p. 710; am. 1996, ch. 271, § 1, p. 879; am. 1997, ch. 80, § 7, p. 165; am. 1997, ch. 155, § 3, p. 438; am. 1998, ch. 110, § 9, p. 375; am. 1999, ch. 81, § 4, p. 237; am. 1999, ch. 383, § 6, p. 1051; am. 2000, ch. 320, § 3, p. 1078; am. 2000, ch. 418, § 6, p. 1331; am. 2000, ch. 469, § 112, p. 1450; am. 2001, ch. 183, § 20, p. 613; am. 2004, ch. 234, § 1, p. 686; am. 2007, ch. 21, § 1, p. 34; am. 2008, ch. 55, § 1, p. 138.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Law enforcement fund, § 67-2914.

Public safety and security information system (ILETS), § 19-5201 et seq.

Open range land, § 25-2118.

Amendments. — This section was amended by two 1997 acts — ch. 80, § 7, effective September 13, 1997 and ch. 155, § 3, effective July 1, 1997 — which do not appear to conflict and have been compiled together.

The 1997 amendment, by ch. 80, § 3, in subsection (1) added in the first sentence the part beginning “except for those records” to the end of the sentence.

The 1997 amendment, by ch. 155, § 3, in subsection (20) added the part of the second sentence beginning “except where the duly” to the end of the sentence, and added the third sentence, and in subsection (22) added the part of the subsection beginning “except in cases where the duly elected official” to the end of the sentence.

This section was amended by two 1999 acts, ch. 81, § 4 and ch. 383, § 6, which appear to be compatible and have been compiled together.

The 1999 amendment, by ch. 81, in subdivision (2)(g), substituted “furnishing copies of” for “answering inquiries as to,” in subdivi-

sion (2)(h), substituted “searching files” for “furnishing copies of files,” in subsection (20), in the last sentence, inserted a hyphen between “traffic” and “control” in two places, in subsection (23), substituted “controlled-access” for “controlled access,” and in subsection (25), inserted “(1)” following “crosses one.”

The 1999 amendment, by ch. 383, added subdivision (2)(p) and the language following subdivision (2)(p), divided former subsection (5) into present subdivisions (5)(a) and (5)(b), added a subdivision (5)(c) [later repealed]; in subdivision (12)(d), substituted “motor carrier requests revocation or whenever an interstate carrier’s federal operating authority has been revoked” for “motor carrier as defined in section 61-801, Idaho Code, has his permit revoked for any cause except at the request of the permit holder, as provided in section 61-808, Idaho Code, or whenever an interstate carrier has his registration revoked by reason of a revocation of his interstate commerce commission operating authority,” in subsection (20), in the second sentence, inserted a hyphen between “controlled access,” in the last sentence, inserted a hyphen between “traffic” and “control” in two places, in subsection (23), substituted “controlled-access” for “controlled access” and in subsection (25), inserted “(1)” following “crosses one.”

The 2007 amendment, by ch. 21, added present subsection (5)(c).

The 2008 amendment, by ch. 55, added subsection (5)(c) and redesignated the subsequent paragraphs in subsection (5).

Effective Dates. — Section 70 of S.L. 1989, ch. 88, as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

Section 2 of S.L. 1991, ch. 214 declared an emergency. Approved April 2, 1991.

Section 2 of S.L. 1992, ch. 173 provided that the act would become effective October 1, 1992.

Section 30 of S.L. 1995, ch. 116 declared an emergency. Approved March 14, 1995.

Section 3 of S.L. 1996, ch. 271 provided that the act shall be in full force and effect on and after January 1, 1997.

Section 6 of S.L. 2000, ch. 320, § 6 provides

this act shall be in full force and effect on and after January 1, 2001.

Section 20 of S.L. 2000, ch. 418 provides: "Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 6 of ch. 418 became effective October 1, 2000.

JUDICIAL DECISIONS

ANALYSIS

Common-law duties.
Traffic manual.

Common-Law Duties.

The fact that a railroad crossing was protected by the signs required by statute and ordinance, and the fact that no public authority had ordered the placement of additional safety devices, did not absolve railway of its common-law duty to place additional warning devices if, under the circumstances, a reasonably prudent person would demand additional safeguards to protect the traveling public. *Farris v. Union Pac. Ry.*, 124 Idaho 932, 866 P.2d 189 (Ct. App. 1993).

stop signs at railroad crossings to those crossings found to have four specified characteristics, was not authorized by former § 49-672 (recodified as subsection (21) of this section in 1988; now subsection (25) of this section), was beyond the authority of the Idaho transportation board, and was, therefore, void. *Curtis v. Canyon Hwy. Dist. No. 4*, 122 Idaho 73, 831 P.2d 541 (1992), overruled on other grounds, *Lawton v. City of Pocatello*, 126 Idaho 454, 886 P.2d 330 (1994).

Traffic Manual.

Section of the Manual on Uniform Traffic Control Devices, limiting the placement of

49-203. Prohibition on release and use of personal information contained in motor vehicle and driver records. — (1) Except as otherwise provided, the department and any officer, employee, agent or contractor thereof, shall not knowingly disclose to any person or entity personal information about any individual when such information was obtained from a motor vehicle or driver record.

(2) Personal information shall be disclosed, except as restricted in subsection (6) of this section, for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act (15 USC 1231 et seq.), the Motor Vehicle Information and Cost Savings Act (49 USC 32101 et seq.), the National Traffic and Motor Vehicle Safety Act of

1966, the Anti Car Theft Act of 1992, and the Clean Air Act (42 USC 7401 et seq., as amended.)

(3) Personal information may be disclosed if the requesting person demonstrates in such form and manner as the department prescribes, that he has obtained the written consent of the individual to whom the personal information pertains.

(4) Personal information may be disclosed, except as restricted in subsection (6) of this section, on proof of the identity of the person requesting a record, and representation by such person that the use of the personal information will be strictly limited to any of the following described uses:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its functions.

(b) For use in matters of motor vehicle or driver safety and theft; motor vehicle emissions, motor vehicle product alterations, recalls or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original records of motor vehicle manufacturers.

(c) For use in the normal course of business by a legitimate business or its agents, employees or contractors, but only:

- (i) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and
- (ii) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, state or local court or agency or before any self-regulatory body, including the services of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state or local court.

(e) For use in research activities, and for use in producing statistical reports, so long as personal information is not published, redisclosed or used to contact individuals.

(f) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees or contractors, in connection with claims investigation activities, rating or underwriting.

(g) For use in providing notice to the owners of towed or impounded vehicles.

(h) For use by any licensed private investigative agency or licensed security service for any purpose permitted under the provisions of title 49, Idaho Code.

(i) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 USC 31101 et seq.).

(j) For bulk distribution for surveys, marketing, or solicitations if the department has obtained the written consent of the person to whom such personal information pertains.

(k) For any other use specifically authorized under Idaho Code, if such use is related to public safety or the operation of a motor vehicle.

(l) For use in connection with the operation of private toll transportation facilities, including companies that operate parking facilities for the purpose of providing notice to the owners of vehicles who have used the facility.

(5) Personal information obtained in an individual's motor vehicle or driver record shall be disclosed, except as restricted in subsection (6) of this section, in response to requests for individual motor vehicle or driver records without regard to the intended use of such personal information if the department has obtained the written consent of the person to whom such personal information pertains.

(6) In addition to the restrictions and prohibitions on the disclosure of personal information contained in motor vehicle and driver records, an individual's photograph, digitized image of a photograph, digitized signature, social security number, and medical or disability information shall not be disclosed without the written consent of the person to whom such information pertains, except for uses permitted under subsections (4)(a) and (4)(d) of this section.

(7) Authorized recipients of personal information may redisseminate such information only for those purposes set forth in paragraphs (a) through (l) of subsection (4) of this section. For the purposes of this subsection (7), "authorized recipients" means an individual, organization or entity who receives personal information for uses permitted in paragraphs (a) through (l) of subsection (4) of this section and includes record redisseminators who agree to redisseminate such information only for the purposes set forth in paragraphs (a) through (l) of subsection (4) of this section. [I.C., § 49-203, as added by 1997, ch. 80, § 8, p. 165; am. 2000, ch. 51, § 1, p. 97; am. 2000, ch. 52, § 1, p. 100.]

STATUTORY NOTES

Amendments. — This section was amended by two 2000 acts — ch. 51, § 1 and ch. 52, § 1, both effective June 1, 2000, which do not conflict and have been compiled together.

The 2000 amendment by ch. 51, § 1, in subsection (4)(d), substituted "in" for "and" preceding "anticipation of litigation"; in present subsection (4)(j), substituted "obtained the written consent of the person to whom such personal information pertains" for "implemented methods and procedures to ensure that"; deleted former subdivisions (4)(j)(i) and (4)(j)(ii) which read: "(i) Individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and (ii) The information will be used, rented, or sold solely for bulk distribution for surveys,

marketing and solicitations, and that surveys, marketing and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them"; in present subsection (5), inserted "individual's motor vehicle or driver" following "Personal information obtained in an", inserted "obtained the written consent of the person to whom such personal information pertains" following "information if the department has" and deleted former subdivisions (5)(a) and (b) which read: "(a) Provided in a clear and conspicuous manner on forms for issuance or renewal of driver's licenses or permits, identification cards, motor vehicle titles or motor vehicle registrations that personal information collected by the department may be disclosed to any business or person;

and” and “(b) Provided in a clear and conspicuous manner on such forms an opportunity for the individual to prohibit such disclosure.”

The 2000 amendment by ch. 52, § 1, in subsection (2), inserted “except as restricted in subsection (6) of this section” following “shall be disclosed”; in the introductory paragraph in subsection (4) inserted “except as restricted in subsection (6) of this section” following “may be disclosed”; in subsection (5) inserted “except as restricted in subsection (6) of this section” following “shall be disclosed”; added present subsection (6); redesignated former subsection (6) as present subsection (7); and in subsection (7) substituted “(7)” for “(6)” following “purposes of this subsection.”

Federal References. — The National Traffic and Motor Vehicle Safety Act of 1966, referred to in subsection (2) of this section, formerly compiled as 15 U.S.C., §§ 1381 et

seq., was repealed by Act July 5, 1994, P.L. 103-272, § 7(b), 108 Stat. 1379; the subject matter formerly covered by that act is now covered generally in 49 U.S.C. § 30101 et seq. The Anti Car Theft Act of 1992, referred to in subsection (2), formerly compiled as 15 U.S.C. §§ 2021 et seq. and 2041 et seq., was repealed by Act July 5, 1994, P.L. 103-272, § 7(b), 108 Stat. 1379; the subject matter formerly covered by those sections is now covered generally in 49 U.S.C. § 32101 et seq. and 49 U.S.C. § 30501 et. seq.

Effective Dates. — Section 13 of S.L. 1997, ch. 80 provided that the act should be in full force and effect on and after September 13, 1997.

Section 2 of S.L. 2000, ch. 51 declared an emergency. Approved March 22, 2000.

Section 3 of S.L. 2000, ch. 52 declared an emergency. Approved March 22, 2000.

49-203A. Rules, policies and waiver procedures on disclosure of personal information. — (1) The department is authorized to adopt rules in compliance with Idaho’s motor vehicle and driver record disclosure requirements. The rules may include procedures under which the department, upon receiving a request for personal information that is not subject to disclosure as provided in section 49-203, Idaho Code, may mail a copy of such request to each individual who is the subject of the personal information, informing the individual of the request, together with a statement to the effect that disclosure is prohibited and will not be made unless the individual affirmatively elects to waive such individual’s right to privacy in the requested personal information.

(2) Disclosure of personal information permitted under the provisions of chapter 2, title 49, Idaho Code, shall be subject to payment by the requesting person to the department of all fees for the information required by statute, rule or the terms of any contract with the requesting person, on such terms for payment as may be required or agreed. [I.C., § 49-203A, as added by 1997, ch. 80, § 9, p. 165.]

STATUTORY NOTES

Effective Dates. — Section 13 of S.L. 1997, ch. 80 provided that the act should be in full force and effect on and after September 13, 1997.

49-204. Misrepresentation to obtain records. — Any person requesting disclosure of personal information from department records who misrepresents his identity or makes a false statement to the department on any application required to be submitted to obtain records shall be guilty of perjury. [I.C., § 49-204, as added by 1997, ch. 80, § 10, p. 165.]

STATUTORY NOTES

Compiler’s Notes. — Former § 49-204 was amended and redesignated as § 49-237 by § 29 of S.L. 1988, ch. 265.

Effective Dates. — Section 13 of S.L.

1997, ch. 80 provided that the act should be in full force and effect on and after September 13, 1997.

49-205. Duties of local officers. — (1) The assessors of the various counties of the state shall be agents of the department and shall perform duties prescribed in this title. With the concurrence of the department, a county assessor may appoint one (1) or more agents to perform the duties prescribed in chapters 4 and 5 of title 49, Idaho Code. Such agent shall post a faithful performance bond in an amount and form acceptable to the department. The assessor may negotiate for reasonable reimbursement of expenses to an agent for any duties performed by the agent under terms of agreement with the county assessor.

(2) The county assessors shall receive and file in their respective offices all instruments required by chapter 5 of this title to be filed with the county assessors, and shall maintain in their respective offices indices for certificates of title issued by the department which shall be kept alphabetically by the name of the owner.

(3) It shall be the duty of peace officers within the state of Idaho to enforce and make arrests for the violation of the provisions of this title without the necessity of procuring a warrant. It shall be the duty of authorized employees of the department to enforce compliance with the laws in accordance with section 40-511, Idaho Code. [1927, ch. 244, § 3, p. 374; I.C.A., § 48-103; am. and redesisg. 1988, ch. 265, § 6, p. 549; am. 1991, ch. 288, § 3, p. 739; am. 1999, ch. 85, § 1, p. 284.]

STATUTORY NOTES

Prior Laws. — Former § 49-205, which comprised 1913, ch. 179, § 33, p. 558; am. 1915, ch. 64, § 22, p. 158; reen. C.L. 63:33; C.S., § 1621; I.C.A., § 48-205, was repealed by S.L. 1985, ch. 253, § 1.

Compiler's Notes. — This section was

formerly compiled as § 49-103 and was amended and redesignated by § 6 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 2 of S.L. 1999, ch. 85 provided that the act should take effect on and after January 1, 2000.

JUDICIAL DECISIONS

Intoxicated Person.

Where police officers did not have control over vehicle of driver who was taken to hospital by police officers after being struck in the nose by bouncer at local bar, and doctor who treated driver told officers that driver was too intoxicated to drive and officers advised driver not to drive and to have someone pick him up and take him home, since neither §§ 19-603(1) nor 50-209, nor subsection (3) of this section, imposes a duty on a police officer

to arrest an intoxicated person who possesses the keys to a vehicle that person might drive, and that person has not committed some other crime for which the officer might arrest the person, officers were not liable in tort to person injured when driver attempted to drive himself in the vehicle after officers had returned his keys to him and departed. *Olguin v. City of Burley*, 119 Idaho 721, 810 P.2d 255 (1991).

49-206. Provisions uniform throughout state. — The provisions of this title shall be applicable and uniform throughout this state in all political subdivisions and municipalities and no local authority shall enact or enforce any ordinance on a matter covered by the provisions of this title

unless expressly authorized. [I.C., § 49-581, as added by 1977, ch. 152, § 2, p. 337; am. and redesign. 1988, ch. 265, § 7, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-206, which comprised 1952 (1st E.S.), ch. 1, § 1, p. 3; am. 1967, ch. 146, § 1, p. 331), was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-581 and was amended and redesignated by § 7 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Municipal Ordinance Yields to State Statute.

The provisions of a city ordinance must yield to the provisions of a state statute under Const., Art. 12, § 2, this section and § 50-302; accordingly, where defendant, upon approach of police car, which displayed flashing lights but did not sound siren, turned left in front of police car causing collision rather

than pulling to right-hand side of road or stopping, conviction under present § 49-625, which requires that drivers yield for either an audible or a visual signal, was upheld even though the Boise City code requires both an audible and visual signal. *State v. Barsness*, 102 Idaho 210, 628 P.2d 1044, appeal dismissed, 454 U.S. 958, 102 S. Ct. 495, 70 L. Ed. 2d 373 (1981).

49-207. Municipal registration prohibited — Power to enact regulatory ordinances not abolished. — (1) Authorities of counties and cities shall have no power to pass, enforce or maintain any ordinance requiring from any owner of a vehicle or any dealer to which this title shall be applicable, any tax, license or permit for the free use of the public highways of a county or city, or prohibiting or excluding any owner or dealer from the free use of such highways or excluding or prohibiting any vehicle registered in compliance with the provisions of this title from the free use of the highways. Powers given by general statutes to local authorities in cities to enact general ordinances applicable equally and generally to all vehicles and the use of highways to bring about the orderly passage of vehicles upon certain highways in such cities where the traffic is heavy and continuous, and powers given to cities to regulate vehicles offered to the public for hire, or processions, assemblages or parades on the highways or in public places shall remain in full force and effect, and all ordinances which may have been or which may be enacted in pursuance of those powers shall remain in full force and effect. These provisions of law shall not be construed to prevent cities from enacting and enforcing general ordinances prescribing additional requirements as to speed, manner of driving, or operating vehicles on any of the highways of such cities, and prescribing other requirements pertaining to signals to be given by drivers or operators of motor vehicles, the carrying of lights on motor vehicles, the turning of motor vehicles on highways, and requirements for motor vehicles in passing other vehicles and pedestrians.

(2) Whenever local authorities in their respective jurisdictions, including the duly elected officials of an incorporated city acting in the capacity of a local authority, determine on the basis of an engineering or traffic investigation, and the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district that the speed limit permitted under this title is greater than is reasonable and safe

under the conditions found to exist upon a highway or part of a highway or because of the residential, urban or business character of the neighborhood abutting the highway in a residential, business or urban district, the local authority may determine and declare a reasonable and safe maximum limit which:

- (a) Decreases the limit within a residential, business or urban district; or
- (b) Decreases the limit outside an urban district.

(3) Local authorities in their respective jurisdictions shall determine by an engineering or traffic investigation the proper maximum speed not exceeding a maximum limit of sixty-five (65) miles per hour for all arterial highways and shall declare a reasonable and safe maximum limit which may be greater or less than the limit permitted under this title for an urban district.

(4) Any decreased speed limit established shall be effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice are erected upon the highway according to requirements of the department.

(5) Upon the decision of the duly elected officials of an incorporated city to decrease the speed limit on highways within the city, excluding controlled access and interstate highways, the city will notify in writing the local district office of the department prior to implementing the change in speed limits. The department shall have thirty (30) days from the day written notice is received to assist implementation, such as providing transitional speed limit signs and taking other steps necessary to preserve public safety. [1913, ch. 179, § 29, p. 558; reen. C.L. 63:29; C.S., § 1617; I.C.A., § 48-202; I.C., § 49-683, as added by 1977, ch. 152, § 3, p. 337; am. 1982, ch. 353, § 24, p. 874; am. 1988, ch. 81, § 2, p. 140; am. and redesisg. 1988, ch. 265, § 8, p. 549; am. 1989, ch. 310, § 9, p. 769; am. 1991, ch. 100, § 2, p. 221; am. 1996, ch. 270, § 3, p. 872; am. 1997, ch. 155, § 4, p. 438.]

STATUTORY NOTES

Prior Laws. — Former § 49-207, which comprised 1952 (1st E.S.), ch. 1, § 2, p. 3, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — Section 8 of S.L.

1988, ch. 265 amended and redesignated §§ 49-202 and 49-683 to become this section.

Effective Dates. — Section 5 of S.L. 1996, ch. 270 provided that the act should be in full force and effect May 1, 1996.

JUDICIAL DECISIONS

ANALYSIS

Placement of sign.
Traffic stop.

Placement of sign.

An officer's mistake of fact about the location of a speed limit sign was inextricably connected with his mistake about the law regarding the speed limit at the intersection, since the placement of the sign determined the applicable speed limit. *State v. McCarthy*, 133 Idaho 119, 982 P.2d 954 (Ct. App. 1999).

Traffic Stop.

DUI defendant, who crossed over a stop line to see around a fence which was obstructing his view of oncoming traffic, was not in violation of Idaho stop sign statute because the statute allowed motorists various options for compliance in coming to a stop at an intersection. However, he was in violation of a local

municipal ordinance, which was not in conflict with the state code, and this gave a police officer probable cause to make a traffic stop.

State v. Young, — Idaho —, 167 P.3d 783 (Ct. App. 2006).

RESEARCH REFERENCES

A.L.R. — Power of municipal corporation to limit exclusive use of designated lanes or streets to buses and taxicabs. 43 A.L.R.3d 1394.

Validity of zoning ordinances prohibiting or regulating outside storage of house trailers, motor homes, campers, vans, and the like, in residential neighborhoods. 95 A.L.R.3d 378.

49-208. Powers of local authorities. — (1) The provisions of this title shall not be deemed to prevent local authorities with respect to highways under their jurisdiction and within the reasonable exercise of the police power from:

- (a) Regulating or prohibiting stopping, standing or parking;
- (b) Regulating traffic by means of peace officers or traffic-control devices;
- (c) Regulating or prohibiting processions or assemblages on the highways;
- (d) Designating particular highways for use by traffic moving in one direction;
- (e) Establishing speed limits for vehicles in public parks;
- (f) Designating any highway as a through highway or designating any intersection or junction of highways as a stop or yield intersection or junction;
- (g) Restricting the use of highways as authorized in chapter 10, title 49, Idaho Code;
- (h) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (i) Altering or establishing speed limits;
- (j) Designating no-passing zones;
- (k) Prohibiting or regulating the use of controlled-access highways by any class or kind of traffic;
- (l) Prohibiting or regulating the use of heavily traveled highways by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (m) Establishing minimum speed limits;
- (n) Prohibiting pedestrians from crossing a highway in a business district or any designated highway except in a crosswalk;
- (o) Restricting pedestrian crossings at unmarked crosswalks;
- (p) Establishing the maximum speed of vehicles on a bridge or other elevated structure;
- (q) Requiring written accident reports;
- (r) Regulating persons propelling pushcarts;
- (s) Regulating persons upon skates, coasters, sleds and other toy vehicles;
- (t) Adopting and enforcing temporary or experimental regulations as may be necessary to cover emergencies or special conditions.
- (u) Prohibiting drivers of ambulances from exceeding maximum speed limits;
- (v) Adopting such other traffic regulations as are specifically authorized by this title;

(w) Allowing the duly elected officials of an incorporated city acting in the capacity as a local authority to establish maximum speed limits on portions of state highways, excluding controlled access and interstate highways, in residential, urban or business districts within the jurisdiction of the incorporated city, so long as the maximum speed limit established by the incorporated city is lower than the maximum speed limit established by the department and is intended to promote motorist and pedestrian safety.

(2) No ordinance or regulation enacted under paragraphs (d) through (p) of subsection (1) of this section shall be effective until traffic-control devices giving notice of local traffic regulations are erected upon or at the entrances to the highway or part affected as may be most appropriate.

(3) No local authority shall erect or maintain any traffic-control device at any location so as to require traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the department.

(4) Local authorities by ordinance may adopt by reference all or any part of title 49, Idaho Code, without publishing or posting in full the provisions thereof, provided that not less than one (1) copy is available for public use and examination in the office of the clerk.

(5) Local authorities may adopt an ordinance establishing procedures for the abatement and removal of abandoned, junk, dismantled or inoperative vehicles or their parts from private or public property, including highways, provided the ordinance is not in conflict with the provisions of this title. [I.C., §§ 49-582 and 49-583, as added by 1977, ch. 152, § 2, p. 337; am. 1982, ch. 353, § 16, p. 874; am. 1983, ch. 25, § 6, p. 66; am. and redesign. 1988, ch. 265, § 9, p. 549; am. 1990, ch. 45, § 13, p. 71; am. 1997, ch. 155, § 5, p. 438.]

STATUTORY NOTES

Prior Laws. — Former § 49-208, which comprised 1952 (1st E.S.), ch. 1, § 3, p. 3; am. 1953, ch. 261, § 9, p. 425; am. 1982, ch. 95, § 26, p. 185, was repealed by S.L. 1988, ch. 265, § 3, effective January 31, 1989.

Compiler's Notes. — Section 9 of S.L. 1988, ch. 265 amended and redesignated §§ 49-582 and 49-583 to become this section.

The 1997 amendment became law July 1, 1997, without the Governor's signature.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

Local Ordinance.

DUI defendant, who crossed over a stop line to see around a fence which was obstructing his view of oncoming traffic, was not in violation of Idaho stop sign statute because the statute allowed motorists various options for compliance in coming to a stop at an intersec-

tion. However, he was in violation of a local municipal ordinance, which was not in conflict with the state code, and this gave a police officer probable cause to make a traffic stop. *State v. Young*, — Idaho —, 167 P.3d 783 (Ct. App. 2006).

49-209. Local traffic-control devices. — Local authorities in their respective jurisdictions shall place and maintain traffic-control devices upon

highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this title, or local traffic ordinances, or to regulate, warn or guide traffic. All traffic-control devices erected shall conform to the state manual and specifications referred to in section 49-201, Idaho Code; provided, however, that any offense created hereunder shall constitute an infraction as the same is defined in section 49-3401(3), Idaho Code. [I.C., § 49-586, as added by 1977, ch. 152, § 2, p. 337; am. 1982, ch. 353, § 17, p. 874; am. and redesiɡ. 1988, ch. 265, § 10, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-209, which comprised 1952 (1st E.S.), ch. 1, § 4, p. 3, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as 49-586 and was

amended and redesignated by § 10 of S.L. 1988, ch. 265 to become this section.

Section 49-3401(3), referred to near the end of the section, was repealed by S.L. 1988 ch. 265, § 502. "Infraction" is currently defined in § 49-110.

JUDICIAL DECISIONS

Failure to Install.

Failure of local authorities to install traffic control devices at a "T" intersection where a street terminates at its junction with a main arterial thoroughfare does not interfere with or frustrate the legislature's intent regarding the regulation of traffic; the failure to install control devices simply triggers the application of § 49-640, expressing the legislature's in-

tent concerning progression of motor vehicles at intersections unregulated by traffic control signs or devices. *State v. Bennion*, 115 Idaho 181, 765 P.2d 692 (Ct. App. 1988).

Cited in: *State v. Schmidt*, 121 Idaho 381, 825 P.2d 104 (Ct. App. 1992); *Rife v. Long*, 127 Idaho 841, 908 P.2d 143 (1995).

DECISIONS UNDER PRIOR LAW

Manual Has Force of Law.

Since former law provided for a uniform system of traffic controls to be incorporated in a manual, which was done and which was specifically adopted by the Idaho state department of highways, and former law provided that local authorities must comply with state

requirements, such manual had the force of law and failure to comply with it was negligence per se. *Jorstad v. City of Lewiston*, 93 Idaho 122, 456 P.2d 766 (1969), overruled on other grounds, *Independent Sch. Dist. v. Callister*, 97 Idaho 59, 539 P.2d 987 (1975).

49-210. Authority to restrict pedestrian crossings. — Local authorities by ordinance and the department by erecting appropriate traffic-control devices, are hereby empowered within their respective jurisdictions to prohibit pedestrians from crossing any highway except in a crosswalk. [I.C., § 49-587, as added by 1977, ch. 152, § 2, p. 337; am. 1982, ch. 353, § 18, p. 874; am. and redesiɡ. 1988, ch. 265, § 11, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-210, which comprised 1952 (1st E.S.), ch. 1, § 7, p. 3, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-587 and was amended and redesignated by § 11 of S.L. 1988, ch. 265 to become this section.

49-211. Authority to close unmarked crosswalks. — The department and local authorities in their respective jurisdictions may, after an engineering and traffic investigation, designate unmarked crosswalk locations where pedestrian crossing is prohibited or when pedestrians must yield the right-of-way to vehicles. Restrictions shall be effective only when traffic-control devices indicating the restrictions are in place. [I.C., § 49-588, as added by 1977, ch. 152, § 2, p. 337; am. 1982, ch. 353, § 19, p. 874; am. and redesisg. 1988, ch. 265, § 12, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-211, which comprised 1952 (1st E.S.), ch. 1, § 8, p. 3, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-588 and was amended and redesignated by § 12 of S.L. 1988, ch. 265 to become this section.

49-212. Authority for stop signs and yield signs. — The department and local authorities with reference to highways under their jurisdiction may erect and maintain stop signs, yield signs, or other traffic-control devices to designate through highways, or to designate intersections or other junctions at which vehicular traffic on one or more of the highways should yield, or stop and yield, before entering the intersection or junction. [I.C., § 49-589, as added by 1977, ch. 152, § 2, p. 337; am. 1982, ch. 353, § 20, p. 874; am. and redesisg. 1988, ch. 265, § 13, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-212, which comprised 1957, ch. 41, § 1, p. 75, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as 49-589 and was amended and redesignated by § 13 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Jury instruction.
Reliance on duty to stop.

Jury Instruction.

In suit for personal injuries as a result of auto accident where district court thoroughly covered the duties of a driver at a stop sign and the law concerning right-of-way at intersections in instructions to the jury, which provided the applicable law at the time of the occurrence in question, the court did not err in refusing to give instruction to show that a person driving on a through street has a statutory right not to have to anticipate that a driver at a stop sign will fail to yield. *LaRue v.*

Archer, 130 Idaho 267, 939 P.2d 586 (Ct. App. 1997).

Reliance on Duty to Stop.

Where defendant had stopped at a stop sign, then ran into plaintiff, who had been safely proceeding on a through street, plaintiff had a right to assume defendant would obey the law and remain stopped until it was safe to proceed. *Potter v. Mulberry*, 100 Idaho 429, 599 P.2d 1000 (1979).

DECISIONS UNDER PRIOR LAW

Reliance on Duty to Stop.

Law that provided for erection of stop and yield signs placed the duty upon the driver of the vehicle approaching the stop sign to stop, before entering the controlled intersection, as

other vehicles approaching such an intersection were entitled to rely upon the mandatory provisions thereof. *Stucki v. Loveland*, 93 Idaho 253, 460 P.2d 388 (1969).

49-213. Parking spaces for persons with a disability — Marking and signing — Enforcement. — (1) Local governments and owners of private property open to public use shall designate parking zones and spaces to be used exclusively by vehicles displaying a special license plate for a person with a disability, or a special placard as prescribed in section 49-410, Idaho Code. Any parking zones and spaces so designated shall conform to the following requirements:

(a) Parking lots will conform to the requirements of federal Public Law 101-336, Americans with disabilities act of 1990.

(b) One (1) parking space shall be designated for every thirty-five (35) spaces of on-street parking available on each downtown street block. These parking spaces shall be parallel with the sidewalk where parallel parking is required, or at an angle to the sidewalk where angle parking is required. Should angle parking be used, the parking spaces so designated for use by a person with a disability shall conform to the federal Americans with disabilities act. All accessible parking spaces shall be located on the shortest route to curb cuts and ramps for use by wheelchairs and other mobility aids and devices. For the purposes of this section, the term "downtown" means the business center of a city as designated by the city council of the city. The term "street block" means that portion of a city street between consecutive parallel intersections.

(c) For each designated parking space or area there shall be posted immediately adjacent to, and visible from each stall or space, a sign consisting of the international accessibility symbol as shown in section 49-410, Idaho Code.

(d) Should any city desire to modify any of the requirements of subsection (1)(a) or (b) of this section, a city council may do so by ordinance, after complying with the following requirements:

1. The city council, or any other body designated by the city council by ordinance, shall receive a recommendation from a board, commission or committee created in conformity with section 50-210, Idaho Code, of which at least one-half (1/2) of the members shall be persons with a disability as defined in section 49-117, Idaho Code; and

2. The city shall cause notice of public hearing on the proposed ordinance modifying the standards specified in subsection (1) (a) or (b) of this section, to be published in a newspaper of general circulation in the city at least fourteen (14) days before the public hearing.

(2) Parking a vehicle or the standing of a vehicle in a space reserved for a person with a disability, which space is signed in conformance with the requirements specified in subsection (1)(c) of this section, is prohibited, unless a vehicle is momentarily in the space for the purpose of allowing a person with a disability to enter or leave the vehicle, or unless special

license plates or placard or temporary placard for a person with a disability is displayed on the vehicle. It is prohibited for any person to park a motor vehicle in a properly marked access aisle in a manner which prevents or reasonably could restrict a person with a disability from entering or exiting their vehicle or in such manner as it would block access to a curb cut or ramp. The registered owner of a vehicle parked in violation of the provisions of this subsection is guilty of an infraction, which is punishable by a fine of one hundred dollars (\$100). Vehicles parked in violation of this section may be towed pursuant to provisions of state law or local ordinance.

(3) Law enforcement officials and/or their designees as authorized by a city or county are empowered to enter upon private property open to public use to enforce the provisions of this section. [I.C., § 49-238, as added by 1981, ch. 205, § 4, p. 368; am. 1983, ch. 122, § 1, p. 316; redesign. and am. 1984, ch. 77, § 4, p. 141; am. 1986, ch. 238, § 1, p. 649; am. and redesign. 1988, ch. 82, § 1, p. 141; am. 1988, ch. 265, § 14, p. 549; am. 1989, ch. 310, § 10, p. 769; am. 1994, ch. 264, § 3, p. 813; am. 2003, ch. 162, § 1, p. 455.]

STATUTORY NOTES

Cross References. — Special license plates and placards, § 49-410.

Federal References. — The Americans with Disabilities Act, referred to in subdivisions (1)(a) and (1)(b) of this section, is compiled at 42 U.S.C. § 12101 et seq.

Compiler's Notes. — This section was formerly compiled as § 49-698 and was amended and redesignated by § 14 of S.L.

1988, ch. 265 to become this section.

Former § 49-213 was amended and redesignated as subsections (1) and (2) of § 49-405 by § 74 of S.L. 1988, ch. 265.

Effective Dates. — Section 34 of S.L. 1989, ch. 310 declared an emergency and provided that the act would become effective retroactively to January 1, 1989. Approved April 5, 1989.

49-214 — 49-216. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-214 — 49-216 were amended and redesignated as

§ 49-405 (3) — (5) by § 74 of S.L. 1988, ch. 265.

49-217. Regulations relative to school buses. — Any officer or employee of any school or school district operating a school bus who violates any regulations promulgated in conformance with the provisions of section 49-201, Idaho Code, may be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school or school district who fails to comply with any regulations may be guilty of breach of contract and such contract may be cancelled after notice of hearing by the responsible officers of the school or school district. [I.C., § 49-590, as added by 1977, ch. 152, § 2, p. 337; am. and redesign. 1988, ch. 265, § 15, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-590 and was

amended and redesignated by § 15 of S.L. 1988, ch. 265 to become this section.

Former § 49-217 was amended and redesignated as § 49-408 by § 77 of S.L. 1988, ch. 265.

49-218. Designation of authorized emergency vehicles. — The director of the Idaho state police shall designate any particular vehicle as an authorized emergency vehicle upon a finding that designation of that vehicle is necessary to the preservation of life or property, or to the execution of emergency governmental functions.

Any person who operates a motor vehicle in a manner which would lead one to reasonably believe it was an emergency vehicle without prior approval of the director of the Idaho state police, shall be guilty of a misdemeanor and shall be subject to a fine of not less than three hundred dollars (\$300) and may be incarcerated for not more than thirty (30) days in jail for each occurrence. [I.C., § 49-591, as added by 1977, ch. 152, § 2, p. 337; am. 1987, ch. 189, § 1, p. 382; am. and redesign. 1988, ch. 265, § 16, p. 549; am. 2000, ch. 469, § 113, p. 1450.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as 49-591 and was amended and redesignated by § 16 of S.L. 1988, ch. 265 to become this section. Former § 49-218 was amended and redesignated as § 49-416 by § 84 of S.L. 1988, ch. 265.

49-219. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-219 was amended and redesignated as § 49-407 by § 76 of S.L. 1988, ch. 265.

49-220. [Reserved.]

49-221. Removal of traffic hazards. — (1) It shall be the responsibility of the owner of real property to remove from his property any hedge, shrubbery, fence, wall or other sight obstructions of any nature, except public traffic or highway signs, buildings and trees, where these sight obstructions constitute a potential traffic hazard. The above sight obstructions shall not extend more than three (3) feet, or less than ten (10) feet, in height above the existing center line highway elevation within the vision triangle of vehicle operators. The boundaries of the vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent highways forty (40) feet along each highway and connecting the two (2) points with a straight line. The sight distance obstruction restriction is also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty (40) feet along the railroad property line when intersecting with a highway.

(2) When the department or any local authority determines that a traffic hazard exists, it may notify the owner and order that the hazard be removed

within an appropriate time as determined by the department or local authority, considering the circumstances and conditions involved. The appropriate time may be specified in the notice. Such notice shall not obligate the department or local authorities to pursue removal or abatement until all legal remedies are exhausted.

(3) The failure of the owner to remove the traffic hazard within the appropriate specified time shall constitute a misdemeanor and every day the owner shall fail to remove the obstruction may be considered a separate and distinct offense. Civil action may also be initiated by state or local officials to enforce vision triangle restrictions.

(4) Local officials may, by resolution or ordinance, establish standards and procedures for protecting vision triangles at the intersections of local streets and roads. Such locally adopted standards or procedures, which may be more or less restrictive than the provisions hereof, shall not modify the standards established by this section concerning intersections with state maintained highways and intersections with railroads. [I.C., § 49-593, as added by 1977, ch. 152, § 2, p. 337; am. 1982, ch. 353, § 21, p. 874; am. and redesign. 1988, ch. 265, § 17, p. 549; am. 1998, ch. 408, § 1, p. 1264.]

STATUTORY NOTES

Prior Laws. — Former § 49-221, which comprised 1951, ch. 55, § 5, p. 79; am. 1957, ch. 38, § 1, p. 72; am. 1969, ch. 210, § 1, p. 611; am. 1977, ch. 122, § 1, p. 261; am. 1978, ch. 285, § 2, p. 692, was repealed by S.L.

1980, ch. 246, § 1, effective May 1, 1980.

Compiler's Notes. — This section was formerly compiled as 49-593 and was amended and redesignated by § 17 of S.L. 1988, ch. 265 to become this section.

49-222. Rights of owners of real property. — Nothing in this title shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner, and not as a matter of right, from prohibiting such use, or from requiring other or different or additional conditions than those specified in this title, or otherwise regulating such use as may seem best to the owner, except as provided in section 49-213, Idaho Code. [I.C., § 49-594, as added by 1977, ch. 152, § 2, p. 337; am. and redesign. 1988, ch. 265, § 18, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-222, which comprised 1951, ch. 55, § 6, p. 79, was repealed by S.L. 1980, ch. 246, § 1, effective May 1, 1980.

Compiler's Notes. — This section was formerly compiled as § 49-594 and was amended and redesignated by § 18 of S.L. 1988, ch. 265 to become this section.

49-223. Sale of nonconforming traffic-control devices. — A person shall not sell nor offer for sale any sign, signal, marking or other device intended to regulate, warn or guide traffic unless it conforms with the adopted state manual and specifications. [I.C., § 49-595, as added by 1977, ch. 152, § 2, p. 337; am. and redesign. 1988, ch. 265, § 19, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-223, which comprised I.C., § 49-227, as added by 1957, ch. 199, § 4, p. 413, was repealed by S.L. 1980, ch. 246, § 1, effective May 1, 1980.

Compiler's Notes. — This section was formerly compiled as 49-595 and was amended and redesignated by § 19 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: Draper v. Draper, 115 Idaho 973, 772 P.2d 180 (1989).

49-224. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., 49-228, as added by 1957, ch. 199, § 4, p. 413; am. 1969, ch. 210, § 2, p. 611,

was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

49-225. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-225 was amended and redesignated as § 49-231 by § 25 of S.L. 1988, ch. 265.

49-226. Filing false affidavit of theft or embezzlement of a vehicle. — It shall be unlawful and a felony for the owner of any vehicle to file an affidavit as required in section 49-449, Idaho Code, knowing the same to be false or misleading. [I.C., § 49-122A, as added by 1969, ch. 3, § 1, p. 5; am. and redesign. 1988, ch. 265, § 20, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-122A and was amended and redesignated by § 20 of S.L. 1988, ch. 265 to become this section.

Former § 49-226 was amended and redesignated as § 49-232 by § 26 of S.L. 1988, ch. 265.

49-227. Operating vehicle without owner's consent. — Any person who shall operate a vehicle, not his own, without the consent of the owner, and with intent temporarily to deprive the owner of his possession of such vehicle, without intent to steal the vehicle, shall be guilty of a misdemeanor, unless the damages caused to the vehicle as a result of a violation of this section exceed one thousand dollars (\$1,000) in value, or the value of property taken from the vehicle exceeds one thousand dollars (\$1,000), or a combination of the damages caused to the vehicle and the value of property taken exceeds one thousand dollars (\$1,000), in which case such person is guilty of a felony. The consent of the owner of a vehicle to its taking or operating shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking or operating of the

vehicle by the same or a different person. Any person who assists in, or is a party or accessory to or an accomplice in any unauthorized taking or operation shall also be guilty of a misdemeanor, unless the damages caused to the vehicle as a result of a violation of this section exceed one thousand dollars (\$1,000) in value, or the value of property taken from the vehicle exceeds one thousand dollars (\$1,000), or a combination of the damages caused to the vehicle and the value of property taken exceeds one thousand dollars (\$1,000), in which case such person is guilty of a felony. For the purpose of this section vehicle shall include, but is not limited to vehicles defined in section 49-123, Idaho Code, boats, airplanes, snowmobiles, three and four wheel all-terrain vehicles, hot air balloons, hang gliders, jet skis and motorcycles. [1927, ch. 244, § 29, p. 374; I.C.A., § 48-131; am. and redesign. 1988, ch. 265, § 21, p. 549; am. 1992, ch. 75, § 1, p. 213; am. 2005, ch. 117, § 1, p. 377.]

STATUTORY NOTES

Prior Laws. — Former § 49-227, which comprised 1955, ch. 90, § 3, p. 204, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-143 and was amended and redesignated by § 21 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Construction.
Joy riding.

Construction.

This section, construed as a whole, defines a misdemeanor and is not applicable in a civil action for damages suffered in an automobile collision. *Abbs v. Redmond*, 64 Idaho 369, 132 P.2d 1044 (1943).

Operation of a vehicle within the meaning of this section means that a person has to be using it as a means of transportation; the State failed to demonstrate that the defendant was riding the bicycle at the time she took it, where defendant pushed rather than rode the bicycle, and pushing the bicycle is not the same as operating the bicycle. *State v. Doe* (In re Doe), 139 Idaho 1, 72 P.3d 547 (Ct. App. 2003).

Joy Riding.

Not every charge of grand theft will necessarily include the offense of joy riding but where the essential elements of joy riding are the "manner or means" by which the grand theft was alleged to have been committed and the evidence is sufficient to show that the defendant committed the offense of joy riding

during the alleged commission of the offense of grand theft (auto), joy riding was a lesser included offense of grand theft (auto). *State v. Tomes*, 118 Idaho 952, 801 P.2d 1303 (Ct. App. 1990).

Where a pickup truck was taken at night and, although defendant mailed the owner \$2.00 allegedly as consideration for the truck, no attempt was made to contact the owner about working out arrangements to pay for it even though defendant had been in possession of the vehicle for 12 days and had driven through several states before he was apprehended, where defendant had placed a stolen license plate on the vehicle and, when apprehended, told the police that his proof of purchase was in the mail and where defendant did not state that he had only intended to "temporarily" deprive the owner of possession but maintained simply that he had intended to pay for the vehicle or for the use of it, the trial court, in a prosecution for grand larceny, did not err in refusing to give a requested instruction on joy-riding. *State v. Pulliam*, 101 Idaho 482, 616 P.2d 261 (1980).

RESEARCH REFERENCES

A.L.R. — Joyriding or similar charge as lesser-included offense of larceny or similar charge. 78 A.L.R.5th 567.

49-228. Receiving or transferring stolen vehicles. — Any person who, with intent to procure or pass title to a vehicle which he knows or has reason to believe has been stolen, shall receive or transfer possession of the vehicle from or to another, or who shall have in his possession any vehicle which he knows or has reason to believe has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as an officer of the law, shall be guilty of a felony and upon conviction shall be punished as provided in section 18-112, Idaho Code. [1927, ch. 244, § 30, p. 374; I.C.A., § 48-132; am. and redesisg. 1988, ch. 265, § 22, p. 549.]

STATUTORY NOTES

Cross References. — Sheriff to keep record of stolen cars, § 31-2202.

Compiler's Notes. — This section was formerly compiled as § 49-144 and was amended and redesignated by § 22 of S.L.

1988, ch. 265 to become this section.

Former § 49-228 was amended and redesignated as subsection (1) of § 49-404 by § 73 of S.L. 1988, ch. 265.

RESEARCH REFERENCES

A.L.R. — Asportation of motor vehicle as necessary element to support charge of larceny. 70 A.L.R.3d 1202.

Presumptions and inferences arising under the National Motor Vehicle Theft Act (Dryer Act) (18 USCS §§ 2312, 2313) from unex-

plained possession of stolen motor vehicle. 15 A.L.R. Fed. 856.

Construction and application of word "stolen" in National Motor Vehicle Theft Act (Dryer Act) (18 USCS §§ 2311-2313). 45 A.L.R. Fed. 370.

49-229. Injuring vehicle. — Any person who shall individually, or in association with one or more others, wilfully break, injure, tamper with or remove any part or parts of any vehicle for the purpose of injuring, defacing or destroying the vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of the vehicle, or who shall in any other manner wilfully or maliciously interfere with or prevent the running or operation of the vehicle shall be guilty of a misdemeanor. [1927, ch. 244, § 31, p. 374; I.C.A., § 48-133; am. and redesisg. 1988, ch. 265, § 23, p. 549.]

STATUTORY NOTES

Cross References. — Penalties, § 49-236.

Compiler's Notes. — This section was formerly compiled as § 49-145 and was amended and redesignated by § 23 of S.L.

1988, ch. 265 to become this section.

Former § 49-229 was amended and redesignated as subsection (2) of § 49-404 by § 73 of S.L. 1988, ch. 265.

49-230. Tampering with vehicle. — Any person who shall without the consent of the owner or person in charge of a vehicle climb into or upon such vehicle with the intent to commit any crime, malicious mischief, or injury, or

who while a vehicle is at rest and unattended shall attempt to manipulate any of the levers, starting crank or other starting device, brakes or other mechanism, or to set the vehicle in motion, shall be guilty of a misdemeanor, except that the foregoing provisions shall not apply when the act is done in an emergency in furtherance of public safety or convenience or by or under the direction of an officer in the regulation of traffic or performance of any other official duty. [1927, ch. 244, § 32, p. 374; I.C.A., § 48-134; am. and redesisg. 1988, ch. 265, § 24, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-146 and was amended and redesignated by § 24 of S.L. 1988, ch. 265 to become this section. Former § 49-230 was amended and redesignated as subsection (3) of § 49-404 by § 73 of S.L. 1988, ch. 265.

49-231. Farm implements — Purchasing or selling when identifying number altered or defaced a felony. — Any person who knowingly buys, receives, disposes of, sells, offers for sale or has in his possession any tractor, trailer, or other farm implement or engine removed from a tractor or farm implement from which the manufacturer's serial or engine number or other distinguishing number or identification mark or number, has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the tractor, trailer or farm implement or engine, is guilty of a felony. [1955, ch. 90, § 1, p. 204; am. and redesisg. 1988, ch. 265, § 25, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-225 and was amended and redesignated by § 25 of S.L. 1988, ch. 265 to become this section. Former § 49-231 was amended and redesignated as § 49-409 by § 78 of S.L. 1988, ch. 265.

49-231A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-231A was amended and redesignated as § 49-415 by § 83 of S.L. 1988, ch. 265.

49-232. Fraudulent removal or alteration of numbers prohibited. — No person shall with fraudulent intent deface, destroy or alter the manufacturer's serial or engine number or other distinguishing number or identification mark of a vehicle or a tractor, or other farm implement; nor shall any person place or stamp any fictitious or unauthorized serial, engine or other number of distinguishing mark with the intention that the same pass for a number or mark placed thereon by the manufacturer of the vehicle or tractor or farm implement. This section shall not prohibit the restoration by an owner or repair man of an original serial, engine or other number or distinguishing mark, but is designed to prohibit and prevent the

fraudulent removal or alteration of marks or numbers placed on the vehicles or tractors and other farm implements by the manufacturer. [1955, ch. 90, § 2, p. 204; am. and redesign. 1988, ch. 265, § 26, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-232, which comprised I.C., § 49-232, as added by 1976, ch. 247, § 2, p. 848, was repealed by S.L. 1988, ch. 265, § 3, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-226 and was amended and redesignated by § 26 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

A.L.R. — Criminal liability, under state law, concerning illegal removal or alteration of vehicle identification number, including

sale or possession of altered motor vehicles or parts. 107 A.L.R.5th 567.

49-233, 49-234. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-233 and 49-234 were amended and redesignated

as §§ 49-1229 and 49-1230 by §§ 317 and 318 of S.L. 1988, ch. 265, respectively.

49-235. Enforcement by peace officers. — (1) The director of the Idaho state police, his officers and employees, and other peace officers as the director of the Idaho state police may authorize in writing may, upon reasonable cause, require the driver of a vehicle to stop and submit the vehicle and its equipment to an inspection and a test as may be appropriate.

(2) In the event a vehicle is found to be in an unsafe condition, or the required equipment is not present, or is not in proper repair and adjustment, the officer shall give a written notice to the driver and send a copy to the Idaho state police. The notice shall require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment, and a certificate of inspection and approval for the vehicle be obtained within five (5) days. Every owner or driver upon receiving such a notice shall comply with the notice and shall within the five (5) days secure an endorsement upon the notice by the person making the repair or adjustment that the vehicle is in safe condition and its equipment in proper repair and adjustment, and shall forward the notice to the Idaho state police.

(3) No person shall operate any vehicle after receiving a notice as provided in this section, until the vehicle and its equipment have been placed in proper repair and adjustment and otherwise made to conform to the requirements of this title. [1953, ch. 273, § 160, p. 478; am. 1974, ch. 27, § 137, p. 811; am. and redesign. 1988, ch. 265, § 27, p. 549; am. 2000, ch. 469, § 114, p. 1450.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-846 and was

amended and redesignated by § 27 of S.L. 1988, ch. 265 to become this section.

Former § 49-235 was amended and redesignated as § 49-1428 by § 364 of S.L. 1988, ch. 265.

49-236. Penalties. — (1) It is a misdemeanor for any person to violate any of the provisions of this title except the provisions of chapter 3, other than sections 49-301, 49-316, 49-331 and 49-332, Idaho Code, chapter 4 and chapters 6 through 9 of this title, unless otherwise specifically provided.

(2) It is an infraction for any person to violate any of the provisions of chapters 3, 4 and 6 through 9 of this title unless otherwise specifically provided.

(3) Any offense punishable by imprisonment in the state penitentiary is a felony.

(4) Punishments shall be as provided in sections 18-111, 18-112, 18-113 and 18-113A, Idaho Code, unless otherwise specifically provided.

(5) Whenever a person is arrested for any violation of the provisions of this title declared to be a felony, he shall be dealt with in like manner as upon arrest for the commission of any other felony.

(6) It is an infraction punishable by a fine of seventy-five dollars (\$75.00) for any person to violate the provisions of either section 49-1229, 49-1232 or 49-1428, Idaho Code. [I.C., § 49-576.2.1, as added by 1955, ch. 84, § 32, p. 156; I.C., § 49-1104, as added by 1982, ch. 353, § 34, p. 874; am. 1983, ch. 25, § 7, p. 66; am. and redesign. 1988, ch. 265, § 28, p. 549; am. 1990, ch. 432, § 1, p. 1198; am. 1992, ch. 115, § 6, p. 345; am. 2000, ch. 327, § 1, p. 1101.]

STATUTORY NOTES

Cross References. — Felony defined, §§ 18-111, 18-111A.

Misdemeanor and infraction defined, §§ 18-111, 18-111B.

Punishment for felony, § 18-112.

Punishment for infraction, § 18-113A.

Punishment for misdemeanor, § 18-113.

Compiler's Notes. — Section 28 of S.L. 1988, ch. 265 amended and redesignated §§ 49-1104 and 49-1108 to become this section.

Former § 49-236 was amended and redesignated as § 49-1233 by § 321 of S.L. 1988, ch. 265.

Effective Dates. — Section 10 of S.L. 1990, ch. 432 provided: "The provisions of Sections 1 through 8 of this act shall become effective on a date to be determined by the Director of the Transportation Department which date shall be enumerated in a proclamation signed by the Director and filed with the Secretary of State, but in no event later than September 1, 1990."

JUDICIAL DECISIONS

Cited in: State v. Brown, 139 Idaho 707, 85 P.3d 683 (Ct. App. 2004).

49-237. Records to be sent to department. — Upon the conviction or reversal of conviction of any person for the violation of any of the provisions of this title, the judicial officer before whom the proceedings are had or the clerk of the district court shall immediately transmit the facts of the case to the department, either in paper or electronic form, including the name, address, date of birth, and the driver's license number or social security number of the party charged, and any judgment issued, including a withheld judgment. The judicial officer or the clerk of the district court shall

also forward to the department information regarding the character of the punishment, and the amount of any fine imposed and paid, the ordered sentence and its terms, and the ordered suspension period, including when the suspension is to commence. The information provided to the department shall be certified if submitted in paper form; no certification is required for electronic transfers of information. The department shall enter the facts either in the records of registered vehicles, or in the records of registered dealers, or in the driver's license records, as the case may be, opposite the name of the person so convicted, and in the case of any other person, in a record of offenders, to be kept for that purpose. If an individual is reincarcerated while that person's driver's license or driving privileges are suspended, the department of correction is to notify the department that the individual is reincarcerated, as well as the terms and period of reincarceration. If the conviction be reversed on appeal, the person whose conviction has been reversed may serve on the department a certified copy of the order of reversal, and the department shall enter the reversal in the proper records. [1913, ch. 179, § 32, p. 558; reen. C.L. 63:32; C.S., § 1620; I.C.A., § 48-204; am. 1982, ch. 95, § 25, p. 185; am. and redesign. 1988, ch. 265, § 29, p. 587; am. 1998, ch. 152, § 1, p. 523; am. 1999, ch. 81, § 5, p. 237.]

STATUTORY NOTES

Prior Laws. — Former section 49-237 which comprised I.C., § 49-237, as added by 1988, ch. 265, § 29, p. 587; 1998, ch. 110, § 10, p. 392, was repealed by S.L. 1999, ch. 81, § 6, effective July 1, 1999.

Compiler's Notes. — This section was formerly compiled as § 49-204 and was

amended and redesignated by § 29 of S.L. 1988, ch. 265 to become this section.

Former § 49-237 was amended and redesignated as § 49-696 by § 2 of S.L. 1984, ch. 77. Former § 49-696 was amended and redesignated as subsection (6) of § 49-410 by § 79 of S.L. 1988, ch. 265.

49-238. Charging violations and rule in civil actions. — (1) In every charge of violation of any speed regulation in this title, the complaint or citation shall specify the speed at which the defendant is alleged to have been driving and the speed limit applicable within the district or at the location.

(2) The provision of this title declaring maximum speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident.

(3) Upon the trial of any person charged with a violation of speed limitations, proof of determination of the maximum speed by the local jurisdictions and the existence of appropriate signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to a bridge or structure. [I.C., § 49-686, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 30, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-686 and was

amended and redesignated by § 30 of S.L. 1988, ch. 265 to become this section.

Former § 49-238 was amended and redesignated as § 49-698 by § 4 of S.L. 1984, ch. 77. Former § 49-698 was amended and redesignated as § 49-213 by § 14 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: Griffith v. Schmidt, 110 Idaho 235, 715 P.2d 905 (1985).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Instructions.

Jury question.

Instructions.

Instruction that motorist must drive at reasonable speed, and that speed in excess of 35 miles per hour was prima facie unlawful under the former statute, was not error, in view of other instructions, though the case was tried on theory of gross negligence. *Willi v. Schaefer Hitchcock Co.*, 53 Idaho 367, 25 P.2d 167 (1933).

Idaho 522, 247 P. 740 (1926).

An automobile driver's negligence in driving at a speed exceeding prima facie lawful rate, failing to see boys, visible on, and immediately adjacent to, highway, until after striking one of them, failing to give warning signal, and failing to see the boy struck or vary his course to avoid striking deceased, who traveled considerable distance within driver's view after appearing from behind a wagon proceeding in opposite direction, was for the jury in a death action. *Bennett v. Deaton*, 57 Idaho 752, 68 P.2d 895 (1937).

Jury Question.

Where evidence is conflicting as to rate of speed, question whether speed limit was exceeded is one for jury. *Quillin v. Colquhoun*, 42

RESEARCH REFERENCES

A.L.R. — Speed, alone or in connection with other circumstances, as gross negligence, wantonness, recklessness, or the like,

under automobile guest statute. 6 A.L.R.3d 769.

49-239. Disposition of fines, penalties, forfeitures and fees. — [1] All fines, penalties, and forfeitures collected for violations of any of the provisions of chapter 4 of this title, shall be remitted to the state treasurer and placed in the highway distribution account.

(2) All other fines, penalties and forfeitures collected by any court or judge, for violation of motor vehicle laws, for violation of state driving privilege laws or for any other provisions of this title, shall be distributed as provided in section 19-4705, Idaho Code.

(3) All fees collected shall be remitted to the state treasurer and placed in the highway distribution account unless otherwise provided in this title. [I.C., § 49-136a, as added by 1953, ch. 261, § 17, p. 425; am. 1974, ch. 27, § 99, p. 811; am. 1982, ch. 95, § 20, p. 185; am. 1984, ch. 195, § 17, p. 445; am. and redesign. 1988, ch. 265, § 31, p. 549.]

STATUTORY NOTES

Cross References. — Highway distribution account, § 40-701.

Compiler's Notes. — This section was formerly compiled as § 49-149 and was

amended and redesignated by § 31 of S.L. 1988, ch. 265 to become this section.

The bracketed subsection designation "(1)" was inserted by the compiler, as no designa-

tion was added to the first paragraph when S.L. 1988, ch. 265, § 31 added subsections (2) and (3).

49-240. Certain circumstances for forfeiture of bond for traffic offenses. — (1) Whenever a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, and if the attorney prosecuting the case and the defendant concur that it is in the best interest of justice that the defendant may post and forfeit an amount of the bond agreed upon by the parties, the court shall dismiss the charge. When bond is forfeited under the provisions of this subsection, no violation points, as prescribed in section 49-326, Idaho Code, shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction, but the proceeds of the bond shall be distributed as court costs and fines as though there were a conviction.

(2) The provisions of subsection (1) of this section shall not be available when citations, summons or complaints are written for a violation of the provisions of section 18-8001, 18-8004, 18-8006 or 49-1401, Idaho Code.

(3) Whenever a person who holds a class A, B or C license has received a written uniform traffic citation, summons or complaint containing a notice to appear before a magistrate for an offense arising out of the operation of a motor vehicle, any bond forfeiture shall be treated as though it were a conviction. [I.C., § 49-1121, as added by 1983 (Ex. Sess.), ch. 3, § 16, p. 8; am. 1984, ch. 22, § 7, p. 25; am. and redessig. 1988, ch. 265, § 32, p. 549; am. 1992, ch. 161, § 1, p. 517; am. 1996, ch. 371, § 4, p. 1246; am. 2006, ch. 164, § 3, p. 489.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 164, in subsection (3), inserted “who holds a class A, B or C license” and substituted “motor vehicle” for “commercial vehicle as defined in federal regulation 49 CFR part 383.5.”

Compiler's Notes. — This section was formerly compiled as § 49-1121 and was amended and redesignated by § 32 of S.L. 1988, ch. 265 to become this section.

49-241, 49-242. [Reserved.]

49-243. Severability. — The provisions of this title are declared to be severable, and if any provision of this title or the application of that provision to any person or circumstance is declared invalid for any reason, that declaration shall not affect the validity of remaining portions of this title. [I.C., § 49-2438, as added by 1985, ch. 117, § 40, p. 242; am. and redessig. 1988, ch. 265, § 33, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-243, which comprised I.C., § 49-243, as added by 1979, ch. 150, § 1, p. 463; am. 1983, ch. 134, § 1, p. 330, was repealed by S.L. 1988, ch. 265, § 3,

effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-2438 and was amended and redesignated by § 33 of S.L.

1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L.

1988, ch. 265 provided that the act should take effect January 1, 1989.

49-244 — 49-246. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-244 — 49-246 were amended and redesignated as

§§ 49-1231, 49-1232 and 49-1439 by §§ 319, 320 and 365 of S.L. 1988, ch. 265, respectively.

CHAPTER 3

MOTOR VEHICLE DRIVER'S LICENSES

SECTION.

- 49-301. Drivers to be licensed.
- 49-302. What persons are exempt from license.
- 49-303. What persons shall not be licensed.
- 49-303A. Driver's license or permits issued to certain persons under the age of eighteen years.
- 49-304. Motorcycle endorsement.
- 49-305. Instruction permits — Temporary licenses — Motorcycle endorsement instruction permit.
- 49-306. Application for driver's license, instruction permit, or restricted school attendance driving permit.
- 49-307. Class D driver's training instruction permit and temporary permits — Class D supervised instruction permit — Application for a class D driver's license — Restrictions on class D driver's license.
- 49-307A. Restricted school attendance driving permit.
- 49-308. Driver training account established.
- 49-309. [Repealed.]
- 49-310. Applications of persons under the age of eighteen years.
- 49-311. Release from liability.
- 49-312. Death of person signing application for person under eighteen years of age.
- 49-312A. [Amended and Redesignated.]
- 49-313. Examination of applicants.
- 49-314. Local examiners appointed by department.
- 49-315. Licenses issued to drivers.
- 49-316. Driver's license to be carried and exhibited on demand.
- 49-317. Restricted driver's licenses.
- 49-318. Duplicate driver licenses and substitute permits.
- 49-319. Expiration and renewal of driver's license.
- 49-320. Notice of change of address.
- 49-321. Records to be kept by the department.

SECTION.

- 49-322. Authority of department to cancel driver's license or instruction permit.
- 49-323. Suspending privileges of nonresidents and reporting convictions.
- 49-324. Suspending resident's license and privileges upon conviction, administrative action or court order in another state or jurisdiction.
- 49-325. Mandatory revocation by department — Temporary restricted permit.
- 49-326. Authority of department to suspend, disqualify or revoke driver's license and privileges.
- 49-326A. Administration by department of judicial suspensions of driver's licenses or privileges to become effective after release from confinement.
- 49-327. Surrender of driver's license — Application for duplicate.
- 49-328. Reinstatement of revoked, disqualified or suspended driver's license — Fee — When reinstatement prohibited.
- 49-329. No operation under foreign license during suspension or revocation in Idaho.
- 49-330. Right of appeal to court.
- 49-331. Unlawful use of driver's license.
- 49-331A. [Amended and Redesignated.]
- 49-332. Making false affidavit perjury.
- 49-333. Prohibitions.
- 49-334. Renting motor vehicle to another.
- 49-335. Disqualifications and penalties — Commercial driver's license.
- 49-336. Nonresident commercial driver's license.
- 49-337. Employee and employer responsibilities.
- 49-338 — 49-341. [Amended and Redesignated.]
- 49-342 — 49-345. [Repealed.]
- 49-346. [Amended and Redesignated.]

SECTION.

49-347. [Repealed.]

49-348. [Amended and Redesignated.]

SECTION.

49-349 — 49-358. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — The heading of this chapter, formerly "Operator and Chauffeur Licenses," was changed by authority of S.L. 1998, ch. 110, § 11.

49-301. Drivers to be licensed. — (1) No person, except those expressly exempted by the provisions of this chapter, shall drive any motor vehicle upon a highway unless the person has a current and valid Idaho driver's license. Provided however, that those persons holding a restricted school attendance driving permit may drive upon a highway pursuant to the restrictions set forth in section 49-307A, Idaho Code.

(2) No person shall operate a motorcycle upon a highway unless he has a motorcycle endorsement on his valid driver's license.

(3) No person shall operate a motor vehicle in violation of any valid restriction identified on or attached to, his valid driver's license.

(4) No person shall receive a class D driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction for use within the United States, or any identification cards issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess a driver's license or any identification cards.

(5) No person shall be permitted to have more than one (1) driver's license issued for use within the United States at any time.

(6) No person shall operate a commercial motor vehicle as defined in section 49-123, Idaho Code, upon a highway:

(a) Without obtaining a commercial driver's license.

(b) Without having the appropriate class A, B or C commercial driver's license in the operator's possession.

(c) Without the proper license class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

(d) Unless the operator has a seasonal or class A, B or C driver's license with required endorsements in his possession.

(7) Any holder of a class A, B or C commercial driver's license issued by a jurisdiction other than Idaho shall apply for an Idaho-issued commercial driver's license within thirty (30) days of establishing a domicile in Idaho. In accordance with the federal motor carrier safety regulations, no person shall receive a class A, B or C driver's license unless and until he surrenders to the department all driver's licenses in his possession issued to him by Idaho or any other jurisdiction.

(8) Except as provided in section 49-304, Idaho Code, a violation of this section is a misdemeanor. [1935, ch. 88, § 7, p. 154; am. 1951, ch. 183, § 3, p. 383; am. 1955, ch. 39, § 1, p. 56; am. 1981, ch. 312, § 1, p. 656; am. and

redesig. 1988, ch. 265, § 35, p. 549; am. 1989, ch. 88, § 14, p. 151; am. 1990, ch. 45, § 14, p. 71; am. 1993, ch. 300, § 2, p. 1105; am. 1994, ch. 234, § 3, p. 728; am. 1996, ch. 371, § 5, p. 1246; am. 1998, ch. 100, § 1, p. 349; am. 1999, ch. 81, § 7, p. 237; am. 2000, ch. 327, § 2, p. 1101; am. 2002, ch. 235, § 1, p. 696; am. 2002, ch. 355, § 1, p. 1011; am. 2004, ch. 126, § 3, p. 422; am. 2006, ch. 164, § 4, p. 489.]

STATUTORY NOTES

Cross References. — Sheriff's fee for processing renewal of class D driver's license, § 31-3203.

Prior Laws. — Former § 49-301, which comprised I.C., § 49-301, as added by 1982, ch. 95, § 41, p. 185; am. 1983 (Ex. Sess.), ch. 3, § 2, p. 8; am. 1987, ch. 279, § 1, p. 588; 1988, ch. 167, § 1, p. 297; 1988, ch. 252, § 1, p. 486, was repealed by S.L. 1988, ch. 265, § 34, effective January 1, 1989.

Amendments. — This section was amended by two 2002 acts, ch. 235, § 1 and ch. 355, § 1 both effective July 1, 2002, which appear to be compatible and have been compiled together.

The 2002 amendment, by ch. 235, § 1, in subsection (1), added the second sentence.

The 2002 amendment, by ch. 355, § 1, added "Except as provided in section 49-304, Idaho Code, a" preceding "violation of this section" in the last paragraph.

The 2006 amendment, by ch. 164, divided former subsection (1) into subsections (1) to (5); deleted "No person shall operate a commercial motor vehicle as defined in section

49-123, Idaho Code, upon a highway unless he has a seasonal or class A, B or C driver's license with required endorsements" from the end of present subsection (2); added subsection (6); and redesignated former subsection (2) as (7); and designated the last paragraph as subsection (8).

Compiler's Notes. — This section was formerly compiled as § 49-307 and was amended and redesignated by § 35 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

ANALYSIS

Applicability.
Constitutionality.
Grounds for arrest.
Jury instructions.
Lesser-included offenses.
Sentence.
Sufficient evidence.
Suppression of evidence.

Applicability.

Where driver's license has been suspended and he has been granted a restricted permit to operate a motor vehicle for certain purposes only, and he violates the restrictions, his violation would be operating the vehicle without privilege under § 18-8001, not for lack of a valid license; however, when the suspension period ends, if his privileges were not restored at the conclusion of the suspension period or the driver does not take the necessary steps to have his privileges restored, then he could be cited for violation of this section, for at this point his privileges

would not be suspended but he would not have a valid license to drive. *State v. Clifford*, 130 Idaho 259, 939 P.2d 578 (Ct. App. 1997).

Constitutionality.

This section and § 49-456(1), under which defendant was prosecuted, did not unconstitutionally impair his rights to religious freedom. *State v. Crisman*, 123 Idaho 277, 846 P.2d 928 (Ct. App. 1993).

Magistrate had jurisdiction, pursuant to § 1-2208(3)(a), to entertain a charge against defendant of driving a motor vehicle without a valid license in violation of this section, be-

cause that charge was a misdemeanor. Although Idaho provided that the right to travel and the right to operate a motor vehicle on public highways were constitutional rights, the requirement pursuant to § 49-306(2) that a driver's license applicant disclose his social security number was deemed a reasonable regulation with the state's police power and, accordingly, did not constitute an unconstitutional impingement of defendant's rights. *State v. Wilder*, 138 Idaho 644, 67 P.3d 839 (Ct. App. 2003).

Grounds for Arrest.

Where defendant was stopped and had no driver's license, or proof of insurance, the registration defendant produced was for a different vehicle, and the vehicle's license plates were fictitious, the officer had grounds to arrest the defendant, and the search of defendant's vehicle incident to that arrest, which revealed methamphetamine, was upheld. *State v. Brown*, 139 Idaho 707, 85 P.3d 683 (Ct. App. 2004).

Jury Instructions.

In defendant's criminal prosecution for driving without a valid driver's license, the trial court was not required to instruct the jury as to criminal intent; knowledge of a suspension of the defendant's license was not an element of the offense. *State v. Taylor*, 139 Idaho 402, 80 P.3d 338 (Ct. App. 2003).

Lesser-Included Offenses.

Driving with an invalid license is a lesser-included offense of driving without privileges under both the statutory and the pleading theories; therefore, where defendant's license was suspended for failing to take care of a

citation, a conviction for driving with an invalid license was appropriate where the original charge was driving without privileges. *State v. Matalamaki*, 139 Idaho 341, 79 P.3d 162 (Ct. App. 2003).

Sentence.

Where the record did not enable the Court of Appeals to draw an independent conclusion as to the reasonableness of a six-month sentence for driving without a license, case was remanded for resentencing. *State v. Croston*, 124 Idaho 471, 860 P.2d 674 (Ct. App. 1993).

Sufficient Evidence.

Where defendant was stopped by the police while driving during a period in which his license was suspended, because he had accumulated an excessive number of violation points, the evidence was sufficient to support his conviction for driving without a valid license. *State v. Taylor*, 139 Idaho 402, 80 P.3d 338 (Ct. App. 2003).

Suppression of Evidence.

Evidence obtained in a search incident to an arrest for violation of this section was not suppressed for lack of probable cause to arrest, where the defendant produced an out-of-state license and admitted to living in the state for several months in violation of this section. *State v. Headley*, 130 Idaho 339, 941 P.2d 311 (1997).

Cited in: *Hawkeye Cas. Co. v. Western Underwriter's Ass'n*, 53 F. Supp. 256 (D. Idaho 1944); *State v. Fanning*, 117 Idaho 655, 791 P.2d 36 (Ct. App. 1990); *State v. Resendiz-Fortanel*, 131 Idaho 488, 959 P.2d 845 (Ct. App. 1998).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, *Automobiles and Highway Traffic*, § 100 et seq.

C.J.S. — 60 C.J.S., *Motor Vehicles*, § 262 et seq.

A.L.R. — *Validity, construction, and application of age requirements for licensing of motor vehicle operators*. 86 A.L.R.3d 475.

State's liability to one injured by improperly licensed driver. 41 A.L.R.4th 111.

Construction and effect of statutes which make parent, custodian, or other person signing minor's application for vehicle operator's license liable for licensee's negligence or willful misconduct. 45 A.L.R.4th 87.

Automobiles: necessity or emergency as defense in prosecution for driving without operator's license or while license is suspended. 7 A.L.R.5th 73.

49-302. What persons are exempt from license. — The following persons are exempt from licensing if driving privileges are not suspended, canceled, revoked, disqualified, denied or refused:

(1) Any person while driving or operating any farm tractor or implement of husbandry when incidentally operated on a highway.

(2) Farmers are exempt from obtaining a class A, B or C driver's license to operate a commercial motor vehicle which is:

- (a) Controlled and operated by a farmer, including operation by employees or family members; and
 - (b) Used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm; and
 - (c) Not used in the operations of a common or contract motor carrier; and
 - (d) Used within one hundred fifty (150) miles of the person's farm.
- (3) Any person is exempt from obtaining a class A, B or C driver's license for the operation of commercial motor vehicles which are necessary to the preservation of life or property or the execution of emergency governmental functions, are equipped with audible and visual signals, and are not subject to normal traffic regulations.
- (4) Any person is exempt from obtaining a class A, B or C license to operate a commercial vehicle which is exclusively used to transport personal possessions or family members for nonbusiness or recreational purposes.
- (5) A nonresident who is at least fifteen (15) years of age and who has in his immediate possession a valid driver's license issued to him in his home state or country may operate a motor vehicle in Idaho only as a class D operator with driving privileges restricted to daylight hours only except as provided in section 49-307(9), Idaho Code, and with full privileges at sixteen (16) years of age, and only if Idaho residency is not established.
- (6) A nonresident who is at least fifteen (15) years of age and who has in his possession a valid driver's license with a motorcycle endorsement or who has a valid motorcycle driver's license issued to him in his home state or country may operate a motorcycle in Idaho with driving privileges restricted to daylight hours only, and with full privileges at sixteen (16) years of age.
- (7) A nonresident who has in his immediate possession a valid commercial driver's license issued to him in his home state or country may operate a motor vehicle in Idaho.
- (8) A nonresident on active duty in the armed forces of the United States who has a valid driver's license issued by his home jurisdiction, and such nonresident's spouse or dependent son or daughter who has a valid driver's license issued by such person's home jurisdiction.
- (9) Any active duty military personnel, active duty U.S. coast guard personnel, and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians who as civilians are required to wear military uniforms and are subject to the code of military justice, are exempt from obtaining a commercial driver's license to operate military vehicles. This exemption does not apply to U.S. reserve technicians.
- (10) Any person with a valid driver's license issued in their name is exempt from the requirement to obtain a motorcycle endorsement on the license when operating a motorcycle on highways or sections of highways designated for unregistered motorcycle use under section 49-426(3), Idaho Code. [1935, ch. 88, § 8, p. 154; am. 1955, ch. 67, § 1, p. 133; am. and residg. 1988, ch. 265, § 36, p. 549; am. 1989, ch. 88, § 15, p. 151; am. 1990, ch. 45, § 15, p. 71; am. 1991, ch. 89, § 2, p. 196; am. 1992, ch. 115, § 7, p. 345; am. 1994, ch. 234, § 4, p. 728; am. 1998, ch. 110, § 12, p. 375; am. 2000, ch. 315, § 1, p. 1059; am. 2003, ch. 47, § 1, p. 176; am. 2008, ch. 194, § 2, p. 610.]

STATUTORY NOTES

Prior Laws. — Former § 49-302, which comprised 1935, ch. 88, § 2, p. 154, was repealed by S.L. 1982, ch. 95, § 40.

Amendments. — The 2008 amendment, by ch. 194, updated the section reference in subsection (5) in light of the 2008 amendment of § 49-307.

Compiler's Notes. — This section was formerly compiled as § 49-308 and was amended and redesignated by § 36 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

No Night Driving license.

Where a third person, permitted by the named insured to use a corporation's automobile, allowed a girl under sixteen who held no driver's license to drive at night, such act was in violation of this section, thus making a liability insurance policy inapplicable, and

the insurance company issuing the same was not liable to injured occupants of the automobile which overturned while going at a high speed. *Hawkeye Cas. Co. v. Western Underwriter's Ass'n*, 53 F. Supp. 256 (D. Idaho 1944).

49-303. What persons shall not be licensed. — The department shall not issue any driver's license, any instruction permit, privileges or right to drive and if issued, may revoke or cancel the driver's license of a person who:

(1) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years, except that the department may issue a driver's license to any person who has successfully completed an approved driver's training course, has completed the requirements of a class D supervised instruction permit, and who is at least fifteen (15) years of age, with driving privileges restricted to daylight hours only except as provided in section 49-307(9), Idaho Code, and with full privileges at sixteen (16) years of age. The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. If a person who is at least fifteen (15) years but is under seventeen (17) years of age has successfully completed an approved driver's training course and has been issued a driver's license in another state, he may be issued a class D driver's license in this state. Provided however, that a restricted school attendance driving permit may be issued to those persons meeting the criteria set forth in section 49-307A, Idaho Code.

(2) As an operator of a vehicle requiring a class D driver's license, is under the age of seventeen (17) years and has not successfully completed an approved driver's training course and has not satisfied the requirements of a class D supervised instruction permit. Provided however, that a restricted school attendance driving permit may be issued to those persons meeting the criteria set forth in section 49-307A, Idaho Code.

(3) As an operator of a commercial vehicle requiring a class A, B or C driver's license is under the age of eighteen (18) years.

(4) Applicants with less than one (1) year of driving experience, as evidenced by a previous driver's license shall not be issued a class A, B or C driver's license or a class A, B or C instruction permit.

(5) As a driver has had his license, class D instruction permit, restricted school attendance driving permit, privileges or right to drive suspended for the duration of the suspension, nor to any person who has had his class D driver's training instruction permit or class D supervised instruction permit canceled for the duration of the cancellation, nor to any person whose license has been revoked, suspended, canceled or disqualified by this state or any other jurisdiction; provided however, where a driver's license has been revoked, suspended, canceled or disqualified in any other jurisdiction, and the driver has completed the period of revocation, suspension, cancellation or disqualification as specified by the jurisdiction, that person may be granted a class D driver's license in this state if five (5) years have elapsed from the time of eligibility for reinstatement in the other jurisdiction, even though the driver has not fulfilled the requirements for reinstatement in the other jurisdiction.

(6) Has been adjudged by a court of competent jurisdiction to be an habitual drunkard or addicted to the use of narcotic drugs, and such order has been received by the department.

(7) Has been adjudged by a licensed physician or by a court of competent jurisdiction to be afflicted with or suffering from any mental incompetence that would affect the person's ability to safely operate a motor vehicle and who has not at the time of application been restored to competency by the methods provided by law, and such order has been received by the department.

(8) Is required by the provisions of this chapter to take an examination, unless that person shall have successfully passed such examination.

(9) May be required under any law of this state to furnish proof of financial responsibility and who has not furnished that proof.

(10) The department has good cause to believe that the operation of a motor vehicle on the highways by that person would be harmful to public safety or welfare.

(11) Is disqualified for a class A, B or C driver's license, except he may be issued a class D driver's license.

(12) Is under eighteen (18) years of age and is not enrolled in school, has not received a waiver pursuant to or has not satisfactorily completed school as provided in section 49-303A, Idaho Code.

(13) Is not a resident of the state of Idaho.

(14) Is not lawfully present in the United States. [1935, ch. 88, § 9, p. 154; am. 1951, ch. 183, § 4, p. 383; am. 1959, ch. 134, § 1, p. 283; am. 1961, ch. 310, § 13, p. 576; am. 1974, ch. 27, § 108, p. 811; am. 1978, ch. 46, § 1, p. 86; am. 1982, ch. 95, § 42, p. 185; am. and redesi. 1988, ch. 265, § 37, p. 549; am. 1989, ch. 88, § 16, p. 151; am. 1989, ch. 426, § 1, p. 1054; am. 1990, ch. 45, § 16, p. 71; am. 1991, ch. 89, § 3, p. 196; am. 1992, ch. 115, § 8, p. 345; am. 1996, ch. 348, § 1, p. 1159; am. 1996, ch. 371, § 6, p. 1246; am. 1998, ch. 110, § 13, p. 375; am. 2000, ch. 214, § 4, p. 583; am. 2001, ch. 168, § 1, p. 579; am. 2002, ch. 235, § 2, p. 696; am. 2003, ch. 47, § 2, p. 176; am. 2007, ch. 110, § 1, p. 316; am. 2008, ch. 63, § 1, p. 155; am. 2008, ch. 194, § 3, p. 611.]

STATUTORY NOTES

Prior Laws. — Former § 49-303, which comprised 1935, ch. 88, § 3, p. 154; am. 1951, ch. 183, § 2, p. 383, was repealed by S.L. 1982, ch. 95, § 40.

Amendments. — This section was amended by two 1996 acts — ch. 348, § 1, and ch. 371, § 6, both effective July 1, 1996 — which appear to conflict as both acts added a subdivision (12). The subdivision (12) as added by ch. 371, § 6, has been designated as “[13](12)” by the compiler.

The 1996 amendment, by ch. 348, § 1, added subdivision (12).

The 1996 amendment, by ch. 371, § 6, in subdivision (9), substituted “furnish” for “deposit” and “furnished” for “deposited”; and added subdivision (12), which has been compiled here as subdivision [13](12).

The 2007 amendment, by ch. 110, in subsections (6) and (7), added “and such order has been received by the department”; in subsection (6), added “Has been adjudged by a court of competent jurisdiction to be”; and in subsection (7), deleted “previously” preceding “been adjudged,” inserted “by a licensed physician or by a court of competent jurisdiction,” and substituted “mental incompetence that would affect the person’s ability to safely operate a motor vehicle” for “mental disability or disease.”

This section was amended by two 2008 acts

which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 63, added subsection (14).

The 2008 amendment, by ch. 194, updated the first section reference in subsection (1) in light of the 2008 amendment of § 49-307; and in subsection (11), inserted the first occurrence of “driver’s.”

Compiler’s Notes. — This section was formerly compiled as § 49-309 and was amended and redesignated by § 37 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver’s licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.”

Section 1 of S.L. 1996, ch. 348, became law without the governor’s signature, July 1, 1996.

Section 13 of S.L. 2000, ch. 214 provides that the act shall be in full force and effect on and after January 1, 2001.

Section 2 of S.L. 2001, ch. 168 declared an emergency. Approved March 23, 2001.

JUDICIAL DECISIONS

ANALYSIS

Cause of action.

Habitual drunkard.

Cause of Action.

Injured passenger adequately pleaded a cause of action against the Idaho division of motor vehicles (DMV) where her amended complaint alleged that, by issuing a drunk driver a license during a period of time when his driving privileges should have remained suspended, the DMV acted with gross negligence or recklessly, willfully, and wantonly. *Cafferty v. State*, — Idaho —, 160 P.3d 763 (2007).

Habitual Drunkard.

Genuine issues of material fact precluded summary judgment on an injured passenger’s claim that the Idaho division of motor vehicles was grossly negligent in reinstating the drunk driver’s unrestricted license, because a reasonable jury could find that a person with seven DUI convictions was a habitual drunkard and that he would be harmful to the public if allowed to drive. *Cafferty v. State*, — Idaho —, 160 P.3d 763 (2007).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 116 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 262 et seq.

A.L.R. — Denial, suspension, or cancellation of driver’s license because of physical

disease or defect. 38 A.L.R.3d 452.

Liability of donor of motor vehicle for injuries resulting from owner’s operation. 22 A.L.R.4th 738.

State’s liability to one injured by improperly licensed driver. 41 A.L.R.4th 111.

49-303A. Driver's license or permits issued to certain persons under the age of eighteen years. — (1) Attendance requirements. The department may issue a driver's license, a class D driver's training instruction permit, a class D supervised instruction permit, or a class D instruction permit to a minor younger than eighteen (18) years of age if, at the time of application, the minor:

(a) Has received a high school diploma, a high school equivalency diploma, a special diploma or a certificate of high school completion;

(b) Is enrolled in a public or private school and satisfies relevant attendance requirements;

(c) Is enrolled in a study course in preparation for a test of general educational development and satisfies relevant attendance requirements;

(d) Is enrolled in a home education program and satisfies the requirements of rules of the state board of education and the state department of education for such programs; provided that students shall be in compliance with the requirements and have been enrolled in the home education program for at least one (1) school year prior to verification of the attendance request, unless documentation of meeting the requirements of this section in the school year contiguous to enrollment in the home education program can be provided;

(e) Is enrolled in an accredited college or university;

(f) Is enrolled in a postsecondary vocational program or a postsecondary adult vocational program and satisfying relevant attendance requirements;

(g) Is enrolled in a job training program pursuant to state or federal law and satisfying relevant attendance requirements; or

(h) Is enrolled in other educational activities approved by the board of trustees of the school district and satisfying relevant attendance requirements.

(2)(a) An applicant for a driver's license who is under the age of eighteen (18) shall provide written verification of compliance with the requirements of subsection (1) of this section or receipt of a waiver therefrom pursuant to subsection (3) of this section to the department. The necessary verification shall be obtained from the school district. If the applicant is enrolled in or has graduated from a private high school, the verification shall be obtained by the applicant from the governing body of the private school. A school district shall not refuse to provide written verification of compliance with the requirements of this section to the department.

(b) Schools may implement interventions designed to improve student attendance with their district policies and procedures.

(c) When applying for a license or any instruction permit, an applicant under age eighteen (18) must provide written verification to the department of compliance with the requirements of subsection (1) of this section or receipt of a waiver therefrom, pursuant to subsection (3) of this section. Written verification shall be obtained from the applicant's school. The applicant's school shall not refuse to provide written verification of compliance with the requirements of this section to the department.

(3)(a) A public school principal, or the principal's designee, or the designee of the governing body of a private school shall provide written

notification to a minor and the minor's parent, guardian or custodian of the school district's or private school's intent to request that the department suspend the minor's driving privileges because the minor has dropped out of school and has failed to comply with the requirements of subsection (1) of this section.

(b) The minor or the parent, guardian or custodian of the minor shall have fifteen (15) calendar days from the date of receipt of this notice to request a hearing before the public school principal, or the principal's designee, or the designee of the governing body of a private school for the purpose of reviewing the pending suspension. The hearing shall be conducted within thirty (30) calendar days after the public school principal, or the principal's designee, or the designee of the governing body of a private school receives the request.

(c) The public school principal, or the principal's designee, or the designee of the governing body of a private school shall waive the requirements of subsection (1) of this section for any minor under its jurisdiction for whom a personal or family hardship requires that the minor have a driver's license for his or her own or his or her family's employment or medical care. The public school principal, or the principal's designee, or the designee of the governing body of a private school shall take into account the recommendations of teachers, other school officials, guidance counselors or academic advisors prior to granting a waiver to the requirements of subsection (1) of this section.

(d) The hardship waiver provided in paragraph (c) of this section shall be requested, if desired by the minor or the minor's parent, guardian or custodian at the initial hearing.

(4) Any person denied a hardship waiver by a public school principal, or the principal's designee, or the designee of the governing body of a private school may appeal the decision to the board of trustees of the school district or the governing body of the private school. The public or private school shall notify the department of all students not in compliance with subsection (1) of this section or who have been granted a hardship waiver pursuant to subsection (3) of this section.

(5) Upon receiving written verification that the reinstatement fees have been paid and the minor is again in compliance with the requirements of subsection (1) of this section, the department shall reinstate the minor's privilege to drive. Thereafter, if the school district determines that the minor is not in compliance with the requirements of subsection (1), the department shall suspend the minor's driving privilege until the minor is eighteen (18) years old or otherwise satisfies the requirements of subsection (1) of this section, whichever occurs first.

(6) The department shall report quarterly to each school district the disposition of all requests to suspend driver's licenses of students of that district. Beginning with the 1996-97 school year, each school district and each private school shall report the number of notifications issued of possible student driver's license suspensions based on nonattendance, requests to the department to suspend a driver's license and student driver's licenses actually suspended. [I.C., § 49-303A, as added by 1996, ch.

348, § 2, p. 1159; am. 1998, ch. 110, § 14, p. 375; am. 2000, ch. 214, § 5, p. 583.]

STATUTORY NOTES

Effective Dates. — Section 2 of S.L. 1996, ch. 348, became law without the governor's signature, July 1, 1996.

Section 13 of S.L. 2000, ch. 214 provides that the act shall be in full force and effect on and after January 1, 2001.

49-304. Motorcycle endorsement. — The department shall issue a motorcycle "M" endorsement on a driver's license to applicants who complete the requirements to operate a motorcycle.

(1) No person may operate a motorcycle upon a highway without a motorcycle "M" endorsement on a valid driver's license.

(2) Any person who applies for a driver's license or renewal of a license may also apply for a motorcycle "M" endorsement. The requirements for obtaining a motorcycle "M" endorsement are:

(a) The applicant shall be tested by written examination for his knowledge of safe motorcycle operating practices and traffic laws specific to the operation of motorcycles upon payment of the fee specified in section 49-306, Idaho Code.

(b) Upon successful completion of the knowledge test and upon payment of the fee required for an "M" endorsement, the applicant shall obtain a motorcycle "M" endorsement on his driver's license.

(3) No person under the age of twenty-one (21) years may apply for or obtain a motorcycle "M" endorsement on his driver's license unless he has successfully completed a motorcycle rider training course approved under the provisions of chapter 49, title 33, Idaho Code, in addition to satisfying the requirements specified in subsection (2) of this section. The provisions of this subsection shall not be effective unless and until the motorcycle rider training course is fully implemented by the department of education.

(4) Any person who applies for a motorcycle endorsement on a driver's license, in addition to the requirements specified in subsection (2) of this section, may also be required to pass the motorcycle "M" skills test before he can obtain the motorcycle "M" endorsement.

(5) The operation of a motorcycle upon a highway by any person who has failed to obtain a motorcycle "M" endorsement as provided in this section shall constitute an infraction. [I.C., § 49-304, as added by 1994, ch. 234, § 5, p. 728; am. 1998, ch. 110, § 15, p. 375; am. 2002, ch. 355, § 2, p. 1011; am. 2005, ch. 25, § 56, p. 82; am. 2008, ch. 18, § 2, p. 26.]

STATUTORY NOTES

Prior Laws. — Former § 49-304, which comprised IC. § 49-310, as amended and redesignated by 1988, ch. 265, § 38, p. 549, was repealed by S.L. 1989, ch. 88, § 17, effective April 1, 1990.

Amendments. — The 2008 amendment, by ch. 18, rewrote subsection (1), which formerly read: "Any person who holds a valid

Idaho driver's license on September 1, 1994, may operate a motorcycle without a motorcycle 'M' endorsement until that driver's license expires on September 1, 1998, whichever occurs first"; in the introductory paragraph in subsection (2), deleted "after September 1, 1994" following the second occurrence of "license" in the first sentence and "Until Sep-

tember 1, 1998" from the beginning of the second sentence; and in subsection (4), de-

leted "after September 1, 1998" following "license."

49-305. Instruction permits — Temporary licenses — Motorcycle endorsement instruction permit. — (1) Upon passage of the required knowledge tests appropriate for the vehicle being operated, the department may issue a class A, B or C instruction permit for the type of vehicle(s) the person will be operating, or a class D instruction permit for a class D motor vehicle, entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of up to one hundred eighty (180) days or as provided in paragraph (b) of this subsection (1) for certain class D instruction permits. That person must be accompanied by an adult driver eighteen (18) years of age or older who holds a valid driver's license appropriate for the vehicle being operated and who is actually occupying a seat beside the driver.

(a) Any person under the age of seventeen (17) years who has successfully completed an approved driver's training course and has satisfied the requirements of a class D supervised instruction permit, or any person who has reached the age of seventeen (17) years may apply for a class D instruction permit. Any person applying for any class D instruction permit or driving privileges who is under the age of eighteen (18) years shall be in compliance with school attendance requirements of section 49-303A, Idaho Code.

(b) If a person reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, and such class D supervised instruction permit becomes a class D instruction permit as provided in section 49-307, Idaho Code, then such class D instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(c) Any person who has reached the age of eighteen (18) years, holds a valid Idaho class D driver's license and has at least one (1) year of driving experience, may apply for a class A, B or C instruction permit.

(d) The department shall not issue a hazardous material endorsement on any instruction permit.

(2) The department may, at its discretion, issue a temporary class D driver's license to an applicant for a class D driver's license permitting him to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary license may be canceled at the department's discretion at any time after issuance. The temporary license must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's driver's license has been issued or for good cause has been refused.

(3) The certified copy of an applicant's birth certificate shall be required before a class D driver's license or class D instruction permit will be issued.

(4) The department may issue a motorcycle endorsement instruction permit to an applicant who has a valid driver's license and who has successfully completed the motorcycle rider's knowledge test and paid the

appropriate fees. The permit entitles the applicant, while having the permit in his immediate possession, to operate a motorcycle upon the highways for a period not to exceed one hundred eighty (180) days. If the permittee passes the skills test for a motorcycle endorsement within one hundred eighty (180) days of issuance of the motorcycle endorsement instruction permit, he shall not be required to pay the motorcycle endorsement fee. A person holding a motorcycle instruction permit shall not carry any passenger while operating a motorcycle, shall not operate a motorcycle except during the hours of daylight only and shall not operate a motorcycle upon any interstate highway system.

A violation of the conditions of a motorcycle endorsement instruction permit is an infraction. The department shall cancel the permit whether or not such violation results in conviction of the infraction. [1935, ch. 88, § 11, p. 154; am. 1961, ch. 310, § 14, p. 576; am. and redesisg. 1988, ch. 265, § 39, p. 549; am. 1989, ch. 88, § 18, p. 151; am. 1989, ch. 426, § 2, p. 1054; am. 1990, ch. 45, § 17, p. 71; am. 1991, ch. 89, § 4, p. 196; am. 1991, ch. 286, § 1, p. 737; am. 1992, ch. 115, § 9, p. 345; am. 1992, ch. 117, § 1, p. 390; am. 1994, ch. 234, § 6, p. 728; am. 1994, ch. 347, § 2, p. 1098; am. 1996, ch. 348, § 4, p.; am. 1996, ch. 371, § 7, p. 1246; am. 1998, ch. 110, § 16, p. 375; am. 1999, ch. 81, § 8, p. 237; am. 2000, ch. 214, § 6, p. 583; am. 2000, ch. 327, § 3, p. 1101; am. 2004, ch. 297, § 1, p. 827; am. 2008, ch. 194, § 4, p. 612.]

STATUTORY NOTES

Prior Laws. — Former § 49-305, which comprised 1935, ch. 88, § 5, p. 154, was repealed by S.L. 1982, ch. 95, § 40.

Amendments. — This section was amended by two 1996 acts — ch. 348, § 4, and ch. 371, § 7, both effective July 1, 1996 — which do not appear to conflict and have been compiled together.

The 1996 amendment, by ch. 348, § 4, in subdivision (1)(a), added the former last sentence and redesignated a former duplicate subsection (3) as subsection (4).

The 1996 amendment, by ch. 371, § 7, in subsection (1), in the introductory paragraph, substituted “the required knowledge tests appropriate for the vehicle being operated,” for “a knowledge test for the license class type” and “adult driver who holds a driver’s license appropriate for the vehicle being operated” for “adult licensed driver who holds at least the same class of driver’s license”; deleted former subdivision (1)(c), concerning when uninterrupted audio or audiovisual electronic communication between the permit holder and instructor would be permitted; redesignated former subdivision (1)(d) as subdivision (1)(c); redesignated a former duplicate subsection (3), as subsection (4); and in that subsection (4), substituted the first sentence for the former first sentence which read, “Upon application for a motorcycle endorsement upon his valid driver’s license and upon successful

completion of the motorcycle rider knowledge test, in addition to payment of the appropriate fees, the department may issue a motorcycle endorsement instruction permit”.

The 2008 amendment, by ch. 194, in the section catchline, substituted “Motorcycle endorsement instruction permit” for “Temporary driver’s training instruction permit”; in the introductory paragraph in subsection (1), in the first sentence, added “or as provided in paragraph (b) of this subsection (1) for certain class D instruction permits,” and in the last sentence, inserted “valid”; in the first sentence in paragraph (1)(a), inserted the language beginning “under the age of seventeen” and ending “or any person”; added paragraph (1)(b) and redesignated the subsequent paragraphs in subsection (1); and in subsection (3), deleted the former first sentence, which read: “If an applicant for a class D driver’s license training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver’s training instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant’s enrollment in a driver training course.”

Compiler’s Notes. — This section was formerly compiled as § 49-311 and was amended and redesignated by § 39 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 3 of S.L. 1989, ch. 426 provided that “This act shall be in full force and effect on and after September 15, 1989. Licenses in effect on the effective date of this act which were issued under the provisions of section 49-305, Idaho Code, or its predecessor code section shall remain in effect until the normal expiration date, unless revoked by the department for other reasons under which revocation of a license is normally required.”

Section 47 of S.L. 1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver’s licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.”

Section 6 of S.L. 1991, ch. 89, read: “This act shall be in full force and effect on and after September 1, 1991. Special class D licenses issued under the provisions of section 49-305,

Idaho Code, shall remain in effect until expiration at sixteen (16) years of age for those drivers who are at least fifteen (15) years of age prior to the effective date of this act. The special class D license shall be considered a class D license with driving privileges restricted to daylight hours only, until the age of sixteen (16) years, for any special class D driver who attains the age of fifteen (15) years on or after the effective date of this act. No license shall remain in effect if suspended or revoked by the department as otherwise required by law.”

Section 2 of S.L. 1991, ch. 286 declared an emergency. Approved April 4, 1991.

Section 2 of S.L. 1992, ch. 117 declared an emergency and provided that the act should be in full force and effect on and after passage and approval. Approved April 1, 1992.

Section 13 of S.L. 2000, ch. 214 provides that the act shall be in full force and effect on and after January 1, 2001.

Section 4 of S.L. 1996, ch. 348, became law without the governor’s signature, July 1, 1996.

49-306. Application for driver’s license, instruction permit, or restricted school attendance driving permit. — (1) Every application

for any instruction permit, restricted school attendance driving permit, or for a driver’s license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver’s license shall be accompanied by the following fee, none of which is refundable:

- (a) Class A, B, C (4-year) license with endorsements — age 21 years and older \$28.50
- (b) Class A, B, C (3-year) license with endorsements — age 18 to 21 years \$20.50
- (c) Class A, B, C (1-year) license with endorsements — age 20 years \$12.25
- (d) Class D (3-year) license — under age 18 years \$20.50
- (e) Class D (3-year) license — age 18 to 21 years \$20.50
- (f) Class D (1-year) license — age 17 years or age 20 years \$12.25
- (g) Four-year Class D license — age 21 years and older \$24.50
- (h) Eight-year Class D license — age 21 to 63 years \$45.00
- (i) Class A, B, C instruction permit \$19.50
- (j) Class D instruction permit or supervised instruction permit .. \$11.50
- (k) Duplicate driver’s license or permit issued under section 49-318, Idaho Code \$11.50
- (l) Driver’s license extension issued under section 49-319, Idaho Code \$ 6.50
- (m) License classification change (upgrade) \$15.50
- (n) Endorsement addition \$11.50
- (o) Class A, B, C skills tests not more than \$55.00

- (p) Class D skills test \$15.00
- (q) Motorcycle endorsement skills test \$ 5.00
- (r) Knowledge test \$ 3.00
- (s) Seasonal driver's license \$27.50
- (t) One time motorcycle "M" endorsement \$11.50
- (u) Motorcycle endorsement instruction permit \$11.50
- (v) Restricted driving permit or restricted school attendance
driving permit \$35.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

- (i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and
- (ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and
- (iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and all applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides satisfactory evidence of a person's date of birth acceptable to the examiner or the department.

(c) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to ensure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to five dollars (\$5.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the five dollar (\$5.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit eleven dollars and fifty cents (\$11.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to eleven dollars and fifty cents (\$11.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be

deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(b) Sixteen dollars and fifty cents (\$16.50) of each fee for a seasonal or class A, B or C driver's license, and ten dollars (\$10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section, and five dollars and forty-one cents (\$5.41) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway fund; and

(c) Ten dollars and fifty cents (\$10.50) of each fee for a class A, B or C instruction permit or driver's license classification change shall be deposited in the state highway fund; and

(d) Four dollars (\$4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and

(e) Six dollars and fifty cents (\$6.50) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway fund; and

(f) Four dollars (\$4.00) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway fund; and

(g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the driver training fund; and

(h) Seven dollars and twenty cents (\$7.20) of each fee for a four-year class D driver's license, and ten dollars and forty cents (\$10.40) of each fee for an eight-year class D driver's license, and six dollars (\$6.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and four dollars and eight cents (\$4.08) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution fund; and

(i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and

(j) Three dollars and ninety cents (\$3.90) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and

(k) Five dollars (\$5.00) of each fee for a class A, B or C skills test shall be deposited in the state highway fund; and

(l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and

(m) Three dollars and fifty cents (\$3.50) of each fee for a class D skills test shall be deposited into the state highway fund.

(9) The contractor administering a class A, B or C skills test shall be entitled to not more than fifty dollars (\$50.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.

(10) Thirty-five dollars (\$35.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway fund.

(11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:

(a) Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;

(b) Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;

(c) May only be obtained twice in a driver's lifetime;

(d) Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and

(e) Will be valid only in conjunction with valid Idaho class D driver's licenses.

(12) The department may issue seasonal class B or C driver's licenses to drivers who:

(a) Have not violated the single license provisions of applicable federal regulations;

(b) Have not had any license suspensions, revocations or cancellations;

(c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;

(d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and

(e) Are at least sixteen (16) years old. [1981, ch. 302, § 2, p. 624; am. 1982, ch. 78, § 2, p. 145; am. and redesign. 1988, ch. 265, § 40, p. 549; am. 1989, ch. 88, § 19, p. 151; am. 1992, ch. 115, § 10, p. 345; am. 1992, ch. 118, § 1, p. 391; am. 1993, ch. 300, § 3, p. 1105; am. 1993, ch. 304, § 1, p. 1126; am. 1994, ch. 234, § 7, p. 728; am. 1994, ch. 347, § 3, p. 1098; am. 1995, ch. 339, § 2, p. 1119; am. 1996, ch. 371, § 8, p. 1246; am. 1997, ch. 80, § 11, p. 165; am. 1997, ch. 357, § 1, p. 1052; am. 1998, ch. 110, § 17, p. 375; am. 1998, ch. 248, § 2, p. 809; am. 1998, ch. 394, § 1, p. 1235; am.

1999, ch. 81, § 9, p. 237; am. 1999, ch. 317, § 1, p. 797; am. 1999, ch. 318, § 1, p. 803; am. 1999, ch. 319, § 1, p. 811; am. 1999, ch. 360, § 2, p. 951; am. 2000, ch. 56, § 1, p. 111; am. 2000, ch. 214, § 7, p. 583; am. 2001, ch. 74, § 1, p. 171; am. 2001, ch. 110, § 49, p. 373; am. 2001, ch. 347, § 1, p. 1219; am. 2002, ch. 161, § 1, p. 474; am. 2002, ch. 235, § 3, p. 696; am. 2005, ch. 352, § 5, p. 1085; am. 2008, ch. 63, § 2, p. 156.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Driver training account, § 49-308.

Highway distribution account, § 40-701.

Amendments. — This section was amended by two 1997 acts — ch. 80, § 11, effective September 13, 1997 and ch. 357, § 1, effective January 1, 1998 — which do not appear to conflict and have been compiled together.

The 1997 amendment, by ch. 80, § 11, in the second undesignated paragraph, following “from disclosure except” substituted “as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code” for “for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners”.

The 1997 amendment, by ch. 357, § 1, in subdivision (1)(p) substituted “\$15.00” for “\$3.00”; in subsection (6) in subdivision (c) deleted “or class B skills test” following “a knowledge test” and added subdivision (f); in subsection (8), added subdivision (m); and in subsection (9) substituted “a class A, B, or C” for “the” preceding “skills” in both the first and second sentences.

This section was amended by three 1998 acts — ch. 110, § 17, ch. 248, § 2 and ch. 394, § 1, all effective July 1, 1998, which do not appear to conflict and have been compiled together.

The 1998 amendment, by ch. 110, § 17, in the introductory paragraph in subsection (1), inserted “extension,” added subdivision (1)(v), in subsection (2), deleted the former last sentence, which read: “If an applicant for a driver’s training instruction permit cannot provide a certified copy of his birth certificate at the time of application, the department may issue a temporary driver’s training instruction permit in accordance with the provisions of section 49-305, Idaho Code”, in subdivision (8)(l), substituted “33-4904” for “33-4804,” added present subsection (10) and redesignated former subsections (10) and (11) as present subsections (11) and (12), respectively.

The 1998 amendment, by ch. 248, § 2, in subsection (2), in the first sentence, deleted “for a class A, B, or C driver’s license or

seasonal driver’s license” following “hair color, and eye color, and,” and added “or by the social security administration” at the end of the sentence.

The 1998 amendment, by ch. 394, § 1, in subdivision (1)(o), added “not more than” and substituted “\$55.00” for “\$35.00,” and in subsection (9), in the first sentence, substituted “entitled to not more than fifty dollars (\$50.00)” for “entitled to thirty dollars (\$30.00).”

This section was amended by five 1999 acts — ch. 81, § 9, effective July 1, 1999; ch. 317, § 1, effective January 1, 2000; ch. 318, § 1, effective January 1, 2001; ch. 319, § 1, effective March 24, 1999; ch. 360, § 2, effective January 1, 2000 — which do not appear to conflict and have been compiled together.

The 1999 amendment, by ch. 81, in the introductory paragraph in subsection (2), inserted “true and” preceding “full name,” substituted “sex, declaration of Idaho residency, Idaho residence” for “place of birth, sex, Idaho residence”; in the last paragraph in (2), inserted “acceptable to the examiner or the department” preceding “and date of birth,” substituted “when obtainable, or another document which provides satisfactory” for “and other satisfactory,” and substituted “of a person’s date of birth acceptable to the examiner” for “to satisfy the issuing officer.”

The 1999 amendment, by ch. 317, in subdivision (1)(g), added “Four-year” preceding “Class D,” added present subdivision (1)(h), redesignated former subsections (1)(c) to (1)(p) as present subsections (1)(i) to (1)(v), in subdivision (6)(a), inserted “four-year” preceding “driver’s license,” and inserted “and ten dollars (\$10.00) from each eight-year class D driver’s license” preceding “in the current expense fund,” in subdivision (8)(a), inserted “four-year” preceding “driver’s license,” and inserted “and four dollars (\$4.00) of each fee for an eight year class D driver’s license” preceding “shall be deposited,” in subdivision (8)(g), inserted “four-year” preceding “class D driver’s,” inserted “and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver’s license” preceding “shall be deposited,” in subdivision (8)(l), inserted “four-year” preceding “D driver’s license,” inserted “and two dollars (\$2.00) of each fee for

an eight-year class D driver's license" preceding "shall be deposited."

The 1999 amendment, by ch. 318, inserted "- 21 years and older" in subdivision (1)(a) and present subdivision (1)(g); inserted subdivisions (1)(d) through (1)(f); redesignated subdivisions (1)(b) through (1)(p) as (1)(e) through (1)(v); inserted "and" at the end of subdivision (6)(d); inserted "and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (c) and (d) of this section," in subdivision (8)(a); inserted "and ten dollars (\$10.00) of each fee charged for a license pursuant to subsection (1)(b) of this section," in subdivision (8)(b); inserted "and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1)(c) and (d) of this section," in subdivision (8)(g); inserted "and six dollars (\$6.00) of each fee charged for a license pursuant to subsections (1)(c) and (d) of this section," in subdivision (8)(g); in subdivision (8)(l), inserted "and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1)(b), (c) and (d) of this section," and "and" at the end of the subdivision and substituted "section 49-335(1) or (2)" for "section 49-335(1) or 49-335(2)" in subdivision (12)(c).

The 1999 amendment, by ch. 319, divided former subsection (2) into four paragraphs, and added present subdivisions (2)(a), (2)(b), (2)(b)(i) through (2)(b)(iii).

The 1999 amendment, by ch. 360, in subdivision (1)(a), substituted "\$28.50" for "\$24.50," in subdivision (1)(b), substituted "\$24.50" for "\$20.50," in subdivision (1)(c), substituted "\$19.50" for "\$15.50," in subdivision (1)(s), substituted "\$27.50" for "23.50," in subdivision (8)(a), inserted "and four dollars (\$4.00) of each such fee shall be deposited in the emergency medical services account III created in section 39-146B, Idaho Code" following "section 39-146A, Idaho Code," added subdivision (8)(d), and redesignated former subdivisions (8)(d) to (8)(l) as subdivisions (8)(e) to (8)(m).

This section was amended by two 2000 acts — ch. 56, § 1 and ch. 214, § 1, both effective January 1, 2001, which do not conflict and have been compiled together.

The 2000 amendment, by ch. 56, § 1, in subsection (1)(a), inserted "(4-year)" preceding "license," added "age" preceding "21 years and older"; in subsection (1)(b) inserted "(3-year)" preceding "license" and substituted "age 18 to" for "under" preceding "21 years"; added present subsection (c); added present subsection (1)(f); renumbered former subsections (c) through (q) as present subsections (d) through (v); in subsection (6)(a) deleted "four year" preceding "driver's license" and inserted "except an eight-year class D license" preceding "or instruction permit"; in subsection (8)(a), deleted "(c) and" following "(1)(b)"; in-

serted "(d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section" preceding "shall be deposited"; inserted "charged pursuant to subsections (1)(a), (g) and (s) of this section" preceding "shall be deposited in the emergency"; in subsection (8)(b) inserted "and five dollars and forty-one cents (\$5.41) of each fee charged for a license pursuant to subsection (1)(c) of this section"; in subsection (8)(g) deleted "(c) and" following "pursuant to subsections" and inserted "(d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section"; in subsection (8)(l) inserted "and and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section."

The 2000 amendment, by ch. 214, § 1, in subsection (6)(a), inserted "or any class D" preceding "instruction permit"; renumbered former subsections (1)(c) through (q) as present subsections (f) through (v).

This section was amended by three 2001 acts which appear to be compatible and have been compiled together.

The 2001 amendment, by ch. 74, § 1, redesignated former subsection (1)(f) through (1)(t) as present subsections (1)(h) through (1)(v); in the introductory paragraph in subsection (11), inserted the language beginning with "to drivers who are" and ending with "and livestock feeders" following "driver's license".

The 2001 amendment, by ch. 110, § 49, substituted "fund" for "account" throughout the section; in the second undesignated paragraph following subsection (2)(a)(iii), substituted "canceled" for "cancelled"; in subsection (8)(a), substituted "56-1018A" for "39-146A" and "56-1018B" for "39-146B"; in subsection (8)(d), substituted "56-1018B" for "39-146B"; in subsection (12)(a), substituted "applicable federal regulations" for "49 CFR part 383".

The 2001 amendment, by ch. 347, § 1, in subsection (8)(a), inserted the language beginning "and eight dollars (\$8.00)" and ending "of this section" preceding "shall be deposited in"; in subsection (8)(h), substituted "ten dollars and forty cents (\$10.40)" for "fourteen dollars and forty cents (\$14.40)".

This section was amended by two 2002 acts, ch. 161, § 1 and ch. 235, § 3, both effective July 1, 2002 which appear to be compatible and have been compiled together.

The 2002 amendment, by ch. 161, § 1, added subsection (2)(c).

The 2002 amendment, by ch. 235, § 3, rewrote the catchline which formerly read "Application for driver's license or instruction permit"; and, in subsections (1), (1)(v), and (10) added references to restricted school attendance driving permits.

The 2008 amendment, by ch. 63, in the

introductory paragraph in subsection (2), deleted "applicant's social security card or by the" preceding "social security administration"; and in paragraph (2)(a), deleted "his social security card or by" preceding "the social security administration."

Federal References. — Section 3 of the federal military selection service act, referred to in the last paragraph of subsection (2), is codified as 50 USCS Appx § 453.

Compiler's Notes. — The national driver register, referred to in subsection (3), is a database of information about drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations maintained by the national highway traffic safety administration.

The commercial driver license information system, referred to in subsection (5), is operated by the American association of motor vehicle administrators and assists jurisdic-

tions in enforcing that each driver, nationwide, has only one driver license and one driving record.

Effective Dates. — Section 13 of S.L. 1997, ch. 80 provided that the act should be in full force and effect on and after September 13, 1997.

Section 4 of S.L. 1999, ch. 317 provides that the act shall be in full force and effect on and after January 1, 2000.

Section 5 of S.L. 1999, ch. 318 provides that the act shall be in full force and effect on and after January 1, 2001.

Section 3 of S.L. 1999, ch. 319 declared an emergency. Approved March 24, 1999.

Section 5 of S.L. 1999, ch. 360 provides that § 2 shall be in full force and effect on and after January 1, 2000.

Section 13 of S.L. 2000, ch. 214 provides that the act shall be in full force and effect on and after January 1, 2001.

JUDICIAL DECISIONS

ANALYSIS

Constitutionality.
Federal requirement.

Constitutionality.

Although Idaho provided that the right to travel and the right to operate a motor vehicle on public highways were constitutional rights, the requirement pursuant to subsection (2) of this section that a driver's license applicant disclose his social security number was deemed a reasonable regulation with the State's police power and, accordingly, did not constitute an unconstitutional impingement of defendant's rights. *State v. Wilder*, 138

Idaho 644, 67 P.3d 839 (Ct. App. 2003).

Federal Requirement.

Order from the Idaho DOT denying plaintiff's application to renew his driver's license for failure to provide his social security number was upheld because the State was required by federal law to record the social security number of all driver's license applicants. *Lewis v. DOT*, 143 Idaho 418, 146 P.3d 684 (Ct. App. 2006).

49-307. Class D driver's training instruction permit and temporary permits — Class D supervised instruction permit — Application for a class D driver's license — Restrictions on class D driver's license. — (1) No enrollee of any class D driver's training course shall be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit as provided in subsection (4) of this section. The class D driver's training instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(2) Every enrollee of a class D driver's training course shall pay a nonrefundable fee of fifteen dollars (\$15.00). Five dollars (\$5.00) of each fee so imposed shall be deposited in the driver training account, five dollars (\$5.00) shall be deposited in the state highway account, and five dollars (\$5.00) shall be deposited in the county current expense fund.

(3) Each enrollee of a class D driver's training course shall provide the type of information required for a driver's license or instruction permit. If an enrollee of a class D driver's training course cannot provide a certified copy

of his birth certificate at the time of application for a permit, the department may issue a temporary driver's training instruction permit or a temporary class D instruction permit upon receipt of both a photo identification and a letter from the school verifying the applicant's enrollment in a driver's training course. The certified copy of an applicant's birth certificate shall be required before a class D driver's license will be issued.

(4) The class D driver's training instruction permit is available to a person aged fourteen and one-half (14 1/2) years up to seventeen (17) years of age. Persons aged seventeen (17) years or older may attend classes or participate in driver's training instruction while operating with a class D instruction permit.

(5) The class D driver's training instruction permit shall be issued to the instructor of the course.

(6) Class D supervised instruction permit.

(a) Upon successful completion of the class D driver's training course, the driver's training instructor shall date and sign the class D driver's training instruction permit over to the parent or legal guardian of the permittee, and the parent or legal guardian shall also date and sign the class D driver's training instruction permit and in so doing agrees to assume responsibility for ensuring that the permittee complies with the requirements of operating a vehicle with a class D supervised instruction permit. The signed and dated class D driver's training instruction permit shall then serve as a class D supervised instruction permit.

(b) In the event the permittee reaches the age of seventeen (17) years while operating a class D vehicle with a class D supervised instruction permit, the supervised instruction permit shall become a class D instruction permit, and such class D instruction permit shall expire five (5) days after the permittee's eighteenth birthday.

(7) No permittee may apply for a class D driver's license sooner than fifteen (15) years of age and no sooner than six (6) months after completing a class D driver's training course, during which time the permittee shall satisfy all requirements for operation of a class D vehicle with a class D supervised instruction permit as follows:

(a) The permittee shall not operate a vehicle unless he is accompanied by a driver who holds a valid driver's license, is twenty-one (21) years of age or older, and who is actually occupying a seat beside the permittee driver. The supervising driver and the permittee shall be the only occupants of the front passenger section of the vehicle.

(b) Over a period of time not less than six (6) months, the permittee shall accumulate at least fifty (50) hours of supervised driving time, ten (10) hours of which shall be during hours of darkness.

(c) The permit shall be in the permittee's immediate possession at all times while operating a vehicle.

(d) In addition to the permittee driver and the supervising driver, all other occupants of the vehicle shall wear a seat belt or be restrained by child passenger restraints as required by law.

(e) The permittee is subject to the provisions of sections 18-1502 and 18-8004, Idaho Code, relating to violation of age restrictions on consump-

tion of beer, wine, and alcohol and driving under the influence of alcohol, drugs or any other intoxicating substances, respectively.

(f) The permittee shall not have been convicted of any moving traffic violation, or have had driving privileges suspended by the department or the court for any offense, or found to be in violation of any of the restrictions on the class D supervised instruction permit, for a period of at least six (6) months from the date the driver's training instructor signed the permit over to the parent or legal guardian, or from the date a canceled class D supervised instruction permit was reissued, or until the permittee reaches seventeen (17) years of age.

(g) If the permittee is under seventeen (17) years of age and is convicted of a violation of any traffic law, or section 18-1502, Idaho Code, or section 18-8004, Idaho Code, or section 23-949, Idaho Code, or is found to be in violation of any of the restrictions on the class D supervised instruction permit, the department shall cancel the class D supervised instruction permit, and the cancellation shall not be used to establish rates of motor vehicle insurance charged by a casualty insurer. If the permittee is under seventeen (17) years of age, the permittee may reapply for and be issued a new class D supervised instruction permit upon payment of the appropriate fees, and shall again be required to operate with the class D supervised instruction permit for at least six (6) months from the date of reissue without a conviction or suspension, accumulate the required hours of driving time and adhere to the requirements as specified in paragraphs (a) through (f) of this subsection (7).

(8) Upon completion of the requirements in subsection (7) of this section, the permittee shall take the knowledge test and skills test administered by a person certified by the Idaho transportation department to administer knowledge and skills tests.

(9) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license with driving privileges restricted to daylight hours for persons under sixteen (16) years of age, and with full privileges at sixteen (16) years of age or older. Provided however, the restriction on daylight hours only driving privileges for persons under sixteen (16) years of age shall not apply if:

(a) The person under sixteen (16) years of age has a valid class D driver's license; and

(b) Is accompanied by a driver who holds a valid driver's license and is twenty-one (21) years of age or older and is actually occupying a seat beside the licensee who is under sixteen (16) years of age; and

(c) The two (2) licensed drivers are the only occupants of the front passenger section of the vehicle.

The restriction of daylight hours only shall mean that period of time one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(10) Upon passage of the knowledge and skills tests, the permittee may apply for a class D driver's license. Any such licensee who is under the age of seventeen (17) years shall be required, during the first six (6) months from the date of issue of the class D driver's license, to limit the number of passengers in the vehicle who are under the age of seventeen (17) years to

not more than one (1) such passenger. Provided however, the limit of one (1) passenger under the age of seventeen (17) years shall not apply to passengers who are related to the driver by blood, adoption or marriage. [I.C., § 49-312A, as added by 1985, ch. 172, § 3, p. 450; am. and redesign. 1988, ch. 265, § 41, p. 549; am. 1989, ch. 88, § 20, p. 151; am. 1990, ch. 45, § 18, p. 71; am. 1994, ch. 347, § 4, p. 1098; am. 1998, ch. 110, § 18, p. 375; am. 2000, ch. 214, § 8, p. 583; am. 2003, ch. 47, § 3, p. 176; am. 2007, ch. 249, § 2, p. 730; am. 2008, ch. 194, § 5, p. 613.]

STATUTORY NOTES

Cross References. — Driver training account, § 49-308.

Amendments. — The 2007 amendment, by ch. 249, added “Restrictions on class D driver’s license” in the section catchline; in the introductory paragraph in subsection (5) and in subsections (5)(f) and (5)(g), substituted “six (6) months” for “four (4) months”; in subsection (5)(g), inserted “or section 23-949, Idaho Code” in the first sentence; and added subsection (8).

The 2008 amendment, by ch. 194, in the section catchline, deleted “Fee for” from the beginning, and inserted “and temporary permits” and “Application for a class D driver’s license”; added subsection (1), redesignated former subsection (1) as subsection (2), and therein, in the first sentence, deleted “in a public school” following “course,” and substituted “fifteen dollars (\$15.00)” for “thirty dollars (\$30.00),” and in the last sentence, substituted “Five dollars (\$5.00)” for “Twenty-five dollars (\$25.00),” and inserted “five dollars (\$5.00) shall be deposited in the state highway account”; deleted former subsection (2), which read: “Every enrollee of a class D driver’s training course offered by a commercial business shall pay a nonrefundable fee of ten dollars (\$10.00). Five dollars (\$5.00) of the fee so imposed shall be deposited in the driver

training account and five dollars (\$5.00) shall be deposited in the county current expense fund”; rewrote subsections (3) through (6) to the extent that a detailed comparison is impracticable; in subsection (7)(b), added “Over a period of time not less than six (6) months”; and in subsection (7)(g), inserted “under seventeen (17) years of age and is” and “is under seventeen (17) years of age, the permittee,” and made an internal reference update.

Compiler’s Notes. — This section was formerly compiled as § 49-312A and was amended and redesignated by § 41 of S.L. 1988, ch. 265 to become this section.

Former § 49-307 was amended and redesignated as § 49-301 by § 35 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990 with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver’s licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.”

Section 13 of S.L. 2000, ch. 214 provides that the act shall be in full force and effect on and after January 1, 2001.

49-307A. Restricted school attendance driving permit. — Notwithstanding any other provision of this chapter applying to licenses or permits, and notwithstanding the minimum age requirement for a driver training course specified in section 33-1703, Idaho Code, other than those provisions specifically applying to restricted school attendance driving permits:

(1) The department may issue a restricted school attendance driving permit to a minor fourteen (14) years of age, but less than sixteen (16) years of age, provided the following:

(a) The minor resides in an Idaho school district with a population of less than one hundred fifty (150) people;

(b) The minor attends an educational program as identified in section 49-303A, Idaho Code, and complies with the provisions of section 49-303A,

Idaho Code, including submission of verification of attendance compliance by the school district to the department; and

(c) There is no school bus service provided to transport the minor to and from school, as verified by the school district to the department.

(2) The permit, if issued, shall only entitle the minor to drive to and from school, and school sponsored activities occurring at the school where enrolled, between the hours of 6:00 a.m. and 9:00 p.m.

(3) The minor must have completed a driver training course and comply with section 49-310, Idaho Code, as a condition of issuance of a permit pursuant to the provisions of this section.

(4) The restricted school attendance driving permit shall be canceled for conviction of any traffic offense and shall not be reissued.

(5) In the event the student terminates their school enrollment in the district in which they have qualified for a restricted school attendance driving permit, the permit shall be canceled. [I.C., § 49-307A, as added by 2002, ch. 235, § 4, p. 696.]

49-308. Driver training account established. — The driver training account is established in the office of the state treasury, which account is continuously appropriated for the purpose of driver training. All disbursements for driver training purposes made under certificate of the state board of education shall be made from the driver training account. [1935, ch. 88, § 46, p. 154; am. 1939, ch. 225, § 4, p. 498; am. 1951, ch. 183, § 15, p. 383; am. 1961, ch. 310, § 17, p. 576; am. 1963, ch. 167, § 1, p. 485; am. 1965, ch. 240, § 3, p. 588; am. 1972, ch. 230, § 3, p. 607; am. 1982, ch. 95, § 51, p. 185; am. 1983, ch. 179, § 2, p. 487; am. 1984, ch. 195, § 25, p. 445; am. 1985, ch. 172, § 6, p. 450; am. and redesisg. 1988, ch. 265, § 42, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-346 and was amended and redesignated by § 42 of S.L. 1988, ch. 265 to become this section. Former § 49-308 was amended and redesignated as § 49-302 by § 36 of S.L. 1988, ch. 265.

49-309. Chauffeur's license — Application. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which was formerly § 49-348 and was amended and redesignated as this section by 1988, ch. 265, § 43, p. 549, was repealed by S.L. 1989, ch. 88, § 21, effective April 1, 1990. Former § 49-309, as enacted by S.L. 1935, ch. 88, § 9, was amended and redesignated as § 49-303 by S.L. 1988, ch. 265, § 37.

49-310. Applications of persons under the age of eighteen years.

— (1) The application of any person under the age of eighteen (18) years for any class D instruction permit, restricted driver's license, restricted school attendance driving permit, or driver's license shall be signed and verified before a person authorized to administer oaths by either the father or mother of the applicant, if both are living and have custody of him; or if

either be dead, then by the surviving parent who has custody of him; or by the Idaho resident host of a foreign exchange student, or in the event neither parent is living, or if living and does not have the custody of the applicant, then by the person or guardian having such custody, with verifiable custody or guardianship documents, or by an employer of the applicant. In the event there is no guardian or employer then some other responsible person willing to assume the obligation for the applicant may sign the application. Any person who signs the applicant's application shall attest that the applicant is in compliance with the school attendance provisions of section 49-303A, Idaho Code, and when signing for a class D driver's training permit or a class D supervised instruction permit, shall attest that the minor person has satisfied the requirements and conditions applicable to the class D supervised instruction permit pursuant to section 49-307, Idaho Code, when the minor person applies for a class D driver's license. The person willing to assume responsibility for the applicant must be at least eighteen (18) years of age. When signing for a restricted school attendance driving permit, the person signing the applicant's application shall attest that the conditions set forth within section 49-307A, Idaho Code, are met. Each application for a restricted school attendance driving permit shall also be signed by the local county sheriff, the president of the board of trustees of the local school district, and the school principal of the applicant's school, verifying that the conditions set forth within section 49-307A, Idaho Code, are met.

(2) Any negligence or willful misconduct of a person under the age of eighteen (18) years when operating a motor vehicle upon a highway shall be imputed to the person who signed the application of that person for a permit or driver's license, and that person shall be jointly and severally liable with the permit or driver's license holder for any damage caused by negligence or willful misconduct, except as otherwise provided by law.

(3) In the event a permit or driver's license holder under the age of eighteen (18) years maintains, or there is maintained upon his behalf, proof of financial responsibility as required under the motor vehicle financial responsibility laws of this state, or by the director if the form and amount is not fixed by law, then the department may accept the application when signed by one (1) parent or guardian of the applicant, and while that proof is maintained the parent or guardian shall not be subject to liability for the negligence or willful misconduct of the person under the age of eighteen (18) years, as imposed under subsection (2) of this section.

(4) Any person who has signed the application of a minor for a permit or driver's license shall be liable civilly for the payment of any court penalty imposed because the minor has been found to have committed an infraction violation. The provisions of this section shall not apply or create any civil liability for the person signing the application in connection with any pedestrian or bicycle infraction, and provided this subsection shall not apply to any civil action where the plaintiff is other than the state of Idaho. [1935, ch. 88, § 13, p. 154; am. 1951, ch. 183, § 7, p. 383; am. 1974, ch. 27, § 109, p. 811; am. 1977, ch. 87, § 1, p. 177; am. 1983, ch. 25, § 4, p. 66; am. and redesign. 1988, ch. 265, § 44, p. 549; am. 1989, ch. 88, § 22, p. 151; am. 1992, ch. 115, § 11, p. 345; am. 1996, ch. 348, § 5, p. 1159; am. 1999, ch. 81, § 10,

p. 237; am. 2000, ch. 214, § 9, p. 583; am. 2002, ch. 235, § 5, p. 696; am. 2002, ch. 357, § 1, p. 1014.]

STATUTORY NOTES

Amendments. — This section was amended by two 2002 acts, ch. 235, § 5 and ch. 357, § 1, both effective July 1, 2002 which appear to be compatible and have been compiled together.

The 2002 amendment, by ch. 235, § 5, in subsection (1), inserted "restricted school attendance permit" preceding "or driver's license shall be signed and verified" and added the last two sentences.

The 2002 amendment, by ch. 357, § 1, in subsection (3), substituted "maintains" for "deposits", substituted "or there is maintained upon his behalf, proof of financial responsibility as required" for "or there is deposited upon his behalf, proof of financial responsibility in respect to the operation of any motor vehicle, in form and in amounts as

required" and substituted "subject to liability for the negligence and willful misconduct of the person under the age of eighteen (18) years, as imposed under" for "subject to the liability imposed under."

Compiler's Notes. — This section was formerly compiled as § 49-313 and was amended and redesignated by § 44 of S.L. 1988, ch. 265 to become this section.

Former § 49-310 was amended and redesignated as § 49-304 by § 38 of S.L. 1988, ch. 265.

Effective Dates. — Section 5 of S.L. 1996, ch. 348, became law without the governor's signature, July 1, 1996.

Section 13 of S.L. 2000, ch. 214 provides that the act shall be in full force and effect on and after January 1, 2001.

JUDICIAL DECISIONS

ANALYSIS

"Insured" covering minor son.
Night driving by a girl under sixteen.

"Insured" Covering Minor Son.

Where insurance policy designated "insured" as any person using the automobile with permission of named insured, minor son was an "insured," and wife of named insured was also an "insured," she having signed an application for son's driver's license. *Leach v. Farmer's Auto. Interinsurance Exch.*, 70 Idaho 156, 213 P.2d 920 (1950).

Night Driving by a Girl Under Sixteen.

Where a third person, permitted by the named insured to use a corporation's automo-

bile, allowed a girl under sixteen, who held no driver's license, to drive at night, such act was in violation of this section, thus making a liability insurance policy inapplicable by its own terms and the insurance company issuing the same was not liable to injured occupants of the automobile which overturned while going at a high speed. *Hawkeye Cas. Co. v. Western Underwriter's Ass'n*, 53 F. Supp. 256 (D. Idaho 1944).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 113.

C.J.S. — 60 C.J.S., Motor Vehicles, § 272 et seq.

A.L.R. — Who is "owner" within statute making owner responsible for injury or death inflicted by operator of automobile. 74 A.L.R.3d 739.

Validity, construction, and application of age requirements for licensing of motor vehicle operators. 86 A.L.R.3d 475.

Construction and effect of statutes which make parent, custodian, or other person signing minor's application for vehicle operator's license liable for licensee's negligence or willful misconduct. 45 A.L.R.4th 87.

49-311. Release from liability. — Any person who has signed the application for a driver's license of a person under the age of eighteen (18) years may file with the department a verified written request that the driver's license so granted be cancelled and the department shall cancel the driver's license. The person who signed the application shall be relieved

from the liability imposed by reason of having signed the application, of any subsequent negligence or willful misconduct of the person signed for in operating a motor vehicle. [1935, ch. 88, § 14, p. 154; am. and redesign. 1988, ch. 265, § 45, p. 549; am. 1989, ch. 88, § 23, p. 151.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-314 and was amended and redesignated by § 45 of S.L. 1988, ch. 265 to become this section. Former § 49-311 was amended and redesignated as § 49-305 by § 39 of S.L. 1988, ch. 265.

RESEARCH REFERENCES

A.L.R. — Construction and effect of statutes which make parent, custodian, or other person signing minor's application for vehicle operator's license liable for licensee's negligence or wilful misconduct. 45 A.L.R.4th 87.

49-312. Death of person signing application for person under eighteen years of age. — The department, upon receipt of satisfactory evidence of the death of the person(s) who signed the application of a person under the age of eighteen (18) years for a driver's license, shall cancel the driver's license and shall not issue a new driver's license until a new application, duly signed and verified, is made. This provision shall not apply in the event the licensee has attained the age of eighteen (18) years. [1935, ch. 88, § 15, p. 154; am. and redesign. 1988, ch. 265, § 46, p. 549; am. 1989, ch. 88, § 24, p. 151.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-315 and was amended and redesignated by § 46 of S.L. 1988, ch. 265 to become this section. Former § 49-312 was amended and redesignated as § 49-306 by § 40 of S.L. 1988, ch. 265.

49-312A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-312A was amended and redesignated as § 49-307 by § 41 of S.L. 1988, ch. 265.

49-313. Examination of applicants. — (1) The sheriff, his deputy or authorized agents of the department shall examine every applicant for an instruction permit, restricted school attendance driving permit, seasonal driver's license, or a driver's license or a motorcycle endorsement, except as otherwise provided by law. The examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic. A skills test shall be required for an applicant who has not been previously licensed for the class of license requested, or who holds a license issued by another country unless a

reciprocal agreement is in force. However, a skills test may be required for any and all other applicants at the discretion of the examiner or department for a class A, B, C or D driver's license or a motorcycle endorsement. In addition, the applicant's knowledge of traffic laws of this state and when a motorcycle endorsement is applied for, the applicant's knowledge of safe motorcycle operating practices and traffic laws specifically relating to motorcycle operation shall be tested by a written examination, except as provided in section 49-319, Idaho Code. At the discretion of the examiner, the prescribed written examination may be conducted orally.

(2) The knowledge and skills examinations for applicants for driver's licenses in class A, B or C shall be conducted in compliance with 49 CFR part 383.

(3) The skills test for a class A, B, C or D driver's license or for any endorsement shall be given by the department or its authorized agents. The skills examiner for a motorcycle endorsement shall be certified by the department of education.

(4) The department shall not issue the following endorsements except as provided:

(a) A tank, double/triple trailer, or hazardous material endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge test.

(b) A passenger endorsement unless the applicant, in addition to all other applicable qualifications, has passed an appropriate knowledge and skills test.

(c) A school bus endorsement unless the applicant, in addition to all other applicable qualifications, has passed appropriate knowledge and skills tests. Until September 30, 2005, the department may waive the school bus endorsement skills test requirement if the applicant meets the conditions set forth in accordance with 49 CFR part 383.123.

(5) Any person failing to pass a knowledge or skills test for a class A, B, C or D driver's license, or a knowledge test for a seasonal driver's license, or any endorsement may not retake the test within three (3) business days of the failure.

(6) Any person retaking a knowledge or skills test for a driver's license shall pay the appropriate testing fee as specified in section 49-306, Idaho Code.

(7) The motorcycle skills test for a motorcycle endorsement shall be waived by the department:

(a) On and after September 1, 1998, if the applicant presents satisfactory evidence of successful completion of a recognized motorcycle rider training course approved by the department of education;

(b) On and after September 1, 1998, if the applicant presents evidence of a motorcycle endorsement on his current license by a state or province which requires a motorcycle skills test equivalent to that required by Idaho law as determined by the department of education;

(c) Until September 1, 1998.

(8) At the discretion of the department, an alternate skills test for the motorcycle endorsement may be administered when the endorsement is for operation of a three-wheeled motorcycle only.

(9) The department or its authorized agents may refuse to give an applicant a skills test if there are reasonable grounds to believe that the safety of the applicant, public, or the examiner would be jeopardized by doing so. Reasonable grounds would include, but not be limited to, the applicant's inability to pass the eye test, written tests, or a statement by a licensed physician stating the applicant is not physically able to drive a motor vehicle.

(10) The department or its authorized agents may deny issuance or renewal of a driver's license or endorsement to any applicant who does not meet the licensing requirements for the class of driver's license or endorsement being renewed or issued.

(11) Skills examinations for seasonal driver's licenses shall be waived. [1988, ch. 265, § 47, p. 549; am. 1989, ch. 88, § 25, p. 151; am. 1990, ch. 45, § 19, p. 71; am. 1991, ch. 89, § 5, p. 196; am. 1993, ch. 300, § 4, p. 1105; am. 1994, ch. 234, § 8, p. 728; am. 1995, ch. 339, § 3, p. 1119; am. 1996, ch. 371, § 9, p. 1246; am. 1997, ch. 357, § 2, p. 1052; am. 1998, ch. 110, § 19, p. 375; am. 2000, ch. 214, § 10, p. 583; am. 2002, ch. 235, § 6, p. 696; am. 2005, ch. 352, § 6, p. 1085.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-316 and was amended and redesignated by § 47 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 13 of S.L. 2000, ch. 214 provides that the act shall be in full force and effect on and after January 1, 2001.

49-314. Local examiners appointed by department. — (1) The department shall appoint the sheriff in each county and may appoint any deputy sheriff, chief of police, or other officials or private citizens whom the department deems qualified as examiners, who shall be agents of the department and shall perform duties prescribed in this title.

(2) The department shall appoint at least one (1) employee in the department who shall be skilled and highly qualified in the method of giving driver's license examinations, who shall have authority, and it shall be this person's duty to instruct the examiners appointed by the department in the method of giving driver's license examinations and acquaint them with the use of equipment and forms needed in examining applicants for licensure.

(3) Agents of the department appointed to administer skill tests for class A, B or C driver's licenses must be certified according to 49 CFR part 383.

(4) Agents of the department appointed to administer the skills test for a motorcycle endorsement shall be certified by the department of education.

(5) Agents of the department to administer skills tests for class D drivers [driver's] license shall be certified by the department. [1988, ch. 265, § 48, p. 549; am. 1989, ch. 88, § 26, p. 151; am. 1990, ch. 45, § 20, p. 71; am. 1994, ch. 234, § 9, p. 728; am. 1997, ch. 357, § 3, p. 1052.]

STATUTORY NOTES

Compiler's Notes. — The bracketed word “driver’s” in subsection (5) was inserted by the compiler.

Effective Dates. — Section 4 of S.L. 1997, ch. 357 provided that the act should take effect on and after January 1, 1998.

49-315. Licenses issued to drivers. — (1) The department shall issue to every qualifying applicant a distinguishing driver’s license as applied for, which shall bear a distinguishing number assigned to the licensee, the full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, color photograph, name of this state, date of issuance, date of expiration, license class, endorsements, restrictions, and the applicant’s signature. Driver’s licenses for persons under eighteen (18) years of age shall include a notation “under 18 until (month, day, year),” and driver’s licenses for persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation “under 21 until (month, day, year).” No driver’s license shall be valid until it has been signed on the signature line of the license by the licensee.

(2) Every driver’s license shall bear a color photograph of the licensee, which shall be taken by the examiner at the time the application is made. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, a driver’s license may contain a statement or indication of the medical condition of the licensee.

(3) The department shall notify the commercial driver license information system that a class A, B or C driver’s license has been issued as required by 49 CFR parts 383 and 384.

(4) A licensee applying for a hazardous material endorsement on a driver’s license shall have a security background records check and shall receive clearance from the federal transportation security administration before the endorsement can be issued, renewed or transferred as required by 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(5) A licensee who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the driver’s license by the imprinting of the word “donor” on the license. The provisions of this subsection shall apply to licensees sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with and the donor indicates this desire be placed on the license.

(6) A licensee who is a person with a permanent disability may request that the notation “permanently disabled” be imprinted on the driver’s license, provided the licensee presents written certification from a licensed physician verifying that the licensee’s stated impairment qualifies as a

permanent disability according to the provisions of section 49-117, Idaho Code. [1935, ch. 88, § 18, p. 154; am. 1951, ch. 183, § 10, p. 383; 1965, ch. 81, § 1, p. 131; am. 1977, ch. 129, § 1, p. 275; am. 1978, ch. 178, § 1, p. 408; am. 1981, ch. 297, § 1, p. 617; am. 1982, ch. 95, § 44, p. 185; am. 1987, ch. 186, § 1, p. 368; am. and redesign. 1988, ch. 265, § 49, p. 549; am. 1989, ch. 88, § 27, p. 151; am. 1991, ch. 203, § 1, p. 482; am. 1992, ch. 115, § 12, p. 345; am. 1994, ch. 85, § 1, p. 200; am. 1998, ch. 110, § 20, p. 375; am. 1999, ch. 318, § 2, p. 803; am. 2001, ch. 74, § 2, p. 171; am. 2001, ch. 332, § 2, p. 1165; am. 2002, ch. 171, § 17, p. 493; am. 2004, ch. 297, § 2, p. 827; am. 2006, ch. 164, § 5, p. 489; am. 2006, ch. 265, § 4, p. 821.]

STATUTORY NOTES

Amendments. — This section was amended by two 2006 acts which appear to be compatible and have been compiled together.

The 2006 amendment, by ch. 164, substituted "49 CFR parts 383 and 384" for "49 CFR part 383" in subsection (3).

The 2006 amendment, by ch. 265, added the last sentence in subsection (5).

Compiler's Notes. — This section was formerly compiled as § 49-318 and was amended and redesignated by § 49 of S.L. 1988, ch. 265 to become § 49-315.

Former § 49-315 was amended and redesignated as § 49-312 by § 46 of S.L. 1988, ch. 265.

The commercial driver license information system, referred to in subsection (5), is operated by the American association of motor vehicle administrators and assists jurisdiction in enforcing that each driver, nationwide, has only one driver license and one driving record.

Effective Dates. — Section 5 of S.L. 1999, ch. 318 provides: "This act shall be in full force and effect on and after January 1, 2001."

Section 6 of S.L. 2001, ch. 332 provided that the act should take effect on and after January 1, 2002.

JUDICIAL DECISIONS

Application for Licenses.

Applications for chauffeurs' licenses are not made to the assessor but are made like appli-

cations for instruction or operators' licenses. State ex rel. Wright v. Headrick, 65 Idaho 148, 139 P.2d 761 (1943).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 108 et seq.

49-316. Driver's license to be carried and exhibited on demand.

— Every licensee shall have his driver's license in his immediate possession at all times when operating a motor vehicle and shall, upon demand, surrender the driver's license into the hands of a peace officer for his inspection. However, no person charged with a violation of the provisions of this section shall be convicted if a driver's license issued to the person and valid at the time of his arrest is produced in court. [1935, ch. 88, § 19, p. 154; am. 1978, ch. 97, § 1, p. 182; am. and redesign. 1988, ch. 265, § 50, p. 549; am. 1989, ch. 88, § 28, p. 151.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-319 and was amended and redesignated by § 50 of S.L. 1988, ch. 265 to become this section.

Former § 49-316 was amended and redesignated as § 49-313 by § 47 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Running status check on license.

Search and seizure.

Surrender of license required.

Running Status Check on License.

While this section does not specifically authorize the officer to run a status check on the driver's license, the court of appeals correctly pointed out that "the statutory authority for police to demand a driver's license would mean little if the police could not check the validity of the license"; running a license check validly fulfills two functions: it allows the officer to correctly identify the person with whom he is dealing and to determine if the license is valid. *State v. Godwin*, 121 Idaho 491, 826 P.2d 452 (1992).

Motion to suppress was properly denied where evidence was found during a search incident to arrest because an officer's act of running a driver's license query was reasonable under the Fourth Amendment; the officer was responding to a complaint about a suspicious parked vehicle and defendant willingly responded to the officer's questions. *State v. Landreth*, 139 Idaho 986, 88 P.3d 1226 (Ct. App. 2004).

Search and Seizure.

The district court properly held that a police officer who lacks probable cause to make a traffic stop, but who otherwise had valid reasons for approaching a stopped vehicle, may request a driver's license and conduct a driver's license record check without violating the driver's Fourth Amendment rights. *State v. Godwin*, 121 Idaho 478, 826 P.2d 478 (Ct. App. 1991).

No seizure had occurred at the time the police pulled in behind defendant's vehicle, which already was stopped on a public street, nor did the officers intrude upon any constitutionally-protected right by walking up to the defendant's vehicle; the situation was quite different, however, once the deputy asked to see defendant's driver's license; by virtue of this section defendant was required to respond to the officer's request; accordingly, defendant was "seized" within the meaning of the Fourth Amendment when the deputy took his license and the seizure was not justified as a valid licensing check, nor did it comport with the requirements of an investigatory detention, nor was it upheld as a lawful exercise of the officer's community caretaking role. *State v. Osborne*, 121 Idaho 520, 826 P.2d 481 (Ct. App. 1991).

Surrender of License Required.

This section requires a driver to surrender a driver's license to a police officer upon demand; this section "implicitly recognizes" the public interest in allowing a police officer to ask for and check a driver's license by "giving a law enforcement officer the authority to require a driver of a motor vehicle to display his or her license on demand." *State v. Godwin*, 121 Idaho 491, 826 P.2d 452 (1992).

Cited in: *State v. Fife*, 115 Idaho 879, 771 P.2d 543 (Ct. App. 1989); *State v. Reed*, 129 Idaho 503, 927 P.2d 893 (Ct. App. 1996).

RESEARCH REFERENCES

C.J.S. — 60, 61 C.J.S., Motor Vehicles, § 284 et seq.

A.L.R. — Validity, construction, and application of statute regarding failure or refusal

to comply with demand upon operator of motor vehicle to display his license. 6 A.L.R.3d 506.

49-317. Restricted driver's licenses. — (1) The department, upon issuing a driver's license, shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate, or other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(2) The department may either issue a special restricted driver's license or may set forth restrictions upon the usual driver's license form.

(3) The department shall, upon receiving satisfactory evidence of any violation of the restrictions of a driver's license, suspend the driver's license or privileges for a period of thirty (30) days but the licensee shall be entitled to a hearing as provided in section 49-326, Idaho Code. [1935, ch. 88, § 20, p. 154; am. and redesign. 1988, ch. 265, § 51, p. 549; am. 1989, ch. 88, § 29, p. 151; am. 1992, ch. 115, § 13, p. 345.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-320 and was amended and redesignated by § 51 of S.L. 1988, ch. 265 to become this section. Former § 49-317 was amended and redesignated as § 49-314 by § 48 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: Hawkeye Cas. Co. v. Western Underwriter's Ass'n, 53 F. Supp. 256 (D. Idaho 1944).

49-318. Duplicate driver licenses and substitute permits. —

(1) The holder of any instruction permit, class A, B, C or D, restricted school attendance driving permit, or seasonal driver's license which is lost or destroyed, or a licensee whose name is legally changed, may apply for a duplicate driver's license or substitute permit. A duplicate driver's license or substitute permit will be issued upon:

(a) Payment of the fee as provided in section 49-306, Idaho Code;

(b) Furnishing satisfactory proof that the permit, class A, B, C or D, restricted school attendance driving permit, or seasonal driver's license has been lost or destroyed, or that the licensee's name has been legally changed; and

(c) Furnishing proof of the applicant's identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides evidence of a person's date of birth acceptable to the examiner or department. In the case of a name change, the applicant shall provide legal documentation acceptable to the department to verify the change.

(2) A duplicate driver's license or substitute permit shall not be issued, as provided in subsection (1) of this section, if the license or permit is suspended, revoked, canceled or disqualified in this state or any other jurisdiction or if the applicant has applied for, or has been issued, a license or permit in another jurisdiction.

(3) The holder of any instruction permit, class A, B, C or D, restricted school attendance driving permit, or seasonal driver's license who requests a duplicate driver's license or substitute permit as provided in subsection (1) of this section, may request that the notation "permanently disabled" be imprinted on the permit or license and the department shall imprint "permanently disabled" on the permit or license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a permit or license as specified in section 49-313, Idaho Code. [1935, ch. 88, § 21, p. 154; am. 1951, ch. 183, § 11, p. 383; am. 1985, ch. 172, § 4, p. 450; am. and redesign. 1988, ch. 265, § 52, p. 549; am. 1989, ch. 88, § 30, p. 151; am. 1990, ch. 45, § 21, p. 71; am. 1992, ch. 115, § 14, p. 345; am. 1993, ch. 300, § 5, p. 1105; am. 1995, ch. 339, § 4, p. 1119; am. 1996, ch. 371, § 10, p. 1246; am. 1998, ch. 110, § 21, p. 375; am. 1999, ch. 81, § 11, p. 237; am. 2001, ch. 332, § 3, p. 1165; am. 2002, ch. 235, § 7, p. 696.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-321 and was amended and redesignated by § 52 of S.L. 1988, ch. 265 to become this section.

Former § 49-318 was amended and redesignated as § 49-315 by § 49 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with

the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

Section 6 of S.L. 2001, ch. 332 provided that the act should take effect on and after January 1, 2002.

49-319. Expiration and renewal of driver's license. — (1) Every noncommercial Idaho driver's license issued to a driver shall expire and be renewable as follows:

(a) Twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following the issuance of the driver's license.

(b) At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the driver's license shall expire either on the licensee's birthday in the fourth year or the eighth year following the issuance of the driver's license.

(c) Every driver's license issued to a driver under eighteen (18) years of age shall expire five (5) days after the licensee's eighteenth birthday.

(d) Every driver's license issued to a driver eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the licensee's twenty-first birthday.

(e) Except licenses issued to drivers under twenty-one (21) years of age, every driver's license that is not, as provided by law, suspended, revoked or disqualified in this state or any other jurisdiction shall be renewable on or before its expiration, but not more than twelve (12) months before, upon application, payment of the required fee, and satisfactory completion of the required eyesight examination.

(2) Every commercial driver's license issued to a person twenty-one (21) years of age or older shall expire on the licensee's birthday in the fourth year following issuance of the license, and any class A, B or C license issued to a person eighteen (18), nineteen (19) or twenty (20) years of age shall expire

five (5) days after the licensee's twenty-first birthday. There shall be no option for an eight-year class A, B or C license.

(3) Every driver's license issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of license issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued a driver's license with an expiration date of one (1) year from the date of issuance. Fees shall be in accordance with the expiration periods and classes listed in section 49-306(1), Idaho Code.

(4) An applicant who is issued a driver's license in another jurisdiction after an Idaho driver's license has been issued is not eligible for renewal or a duplicate of the Idaho driver's license. The applicant may apply for a new Idaho driver's license as provided in section 49-306, Idaho Code.

(5) No knowledge test shall be required for renewal of a driver's license, except for renewal of a hazardous material endorsement. Appropriate knowledge and skill tests shall be required for an upgrade in a driver's license class or an endorsement addition. In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(6) Applicants for a hazardous material endorsement shall provide either proof of United States citizenship or proof of lawful, permanent United States residence and a valid federal bureau of citizenship and immigration services alien registration number. A security background records check and federal transportation security administration clearance shall be required for issuance, renewal or transfer of a hazardous material endorsement in accordance with 49 CFR part 383, subject to procedures established by the federal transportation security administration.

(7) Except for drivers under twenty-one (21) years of age, when a driver's license has been expired for fewer than twelve (12) months, the renewal of the driver's license shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the driver's license is expired for twelve (12) months or more, the applicant shall be required to take the knowledge, skills for the class of license or endorsement being applied for, and vision tests and the application shall expire on the licensee's birthday in the fourth year following issuance of the driver's license for drivers twenty-one (21) years of age or older, except as otherwise provided in subsection (3) of this section. At the option of the applicant, for drivers twenty-one (21) years of age through sixty-two (62) years of age, the renewed license shall expire either on the licensee's birthday in the fourth year or the eighth year following issuance, except as otherwise provided in subsection (3) of this section.

(8)(a) If a driver's license has expired or will expire and the licensee is temporarily out-of-state except on active military duty, and the driver's license has not, as provided by law, been suspended, revoked, canceled, denied, refused or disqualified, the licensee may request in writing on a

form prescribed by the department an extension of the driver's license. The request shall be accompanied by the fee fixed in section 49-306, Idaho Code, and the extension shall be less than a twelve (12) month period. If the department determines that an extension of the driver's license is necessary, it may issue a certificate of extension showing the date to which the expired driver's license is extended, and this certificate shall be attached to the expired driver's license. Certificates of extension are limited to two (2) per licensee.

(b) Upon returning to the state of Idaho, the licensee shall within ten (10) days, apply for a renewal of the expired driver's license and surrender the certificate of extension and the expired driver's license.

(c) A hazardous material endorsement cannot be extended.

(9) An Idaho driver's license issued to any person prior to serving on active duty in the armed forces of the United States, or a member of the immediate family accompanying such a person, if valid and in full force and effect upon entering active duty, shall remain in full force and effect and shall, upon application, be extended for a period of four (4) years so long as active duty continues, or shall be renewed upon application in person without the requirement to take a knowledge or skills test if their Idaho driver's license expired while on active duty, if the driver's license is not suspended, denied, disqualified, canceled or revoked, as provided by law, during the active duty, and the driver's license shall remain in full force and effect sixty (60) days following the date the holder is released from active duty.

(10) The department may use a mail renewal process for four-year class D licenses based on criteria established by rule.

(11) A seasonal driver's license is only valid for a one hundred eighty (180) day period from the date of issuance. Only one (1) seasonal driver's license may be obtained in any twelve (12) month period, and may only be obtained twice in a driver's lifetime.

(12) A person who applies for renewal of a license may request that the notation "permanently disabled" be imprinted on the license and the department shall imprint "permanently disabled" on the license if:

(a) The person has a permanent disability; and

(b) The person presents written certification from a licensed physician, licensed physician assistant, or licensed advanced practice professional nurse verifying that the person's stated impairment qualifies as a permanent disability as provided in section 49-117, Idaho Code; and

(c) The department determines that the person meets the requirements for issuance of a license as specified in section 49-313, Idaho Code. [I.C., § 49-322, as added by 1977, ch. 43, § 2, p. 77; am. 1979, ch. 82, § 2, p. 200; am. 1982, ch. 95, § 45, p. 185; am. 1983, ch. 254, § 1, p. 673; am. 1985, ch. 172, § 5, p. 450; am. 1986, ch. 203, § 2, p. 506; am. 1986, ch. 326, § 1, p. 801; am. and redesign. 1988, ch. 265, § 53, p. 549; am. 1989, ch. 88, § 31, p. 151; am. 1990, ch. 45, § 22, p. 71; am. 1992, ch. 115, § 15, p. 345; am. 1993, ch. 300, § 6, p. 1105; am. 1996, ch. 371, § 11, p. 1246; am. 1998, ch. 110, § 22, p. 375; am. 1999, ch. 81, § 12, p. 237; am. 1999, ch. 317, § 2, p. 797; am. 1999, ch. 318, § 3, p. 803; am. 2000, ch. 56, § 2, p. 111; am.

2001, ch. 332, § 4, p. 1165; am. 2004, ch. 126, § 4, p. 422; am. 2004, ch. 297, § 3, p. 827; am. 2004, ch. 339, § 1, p. 1012; am. 2008, ch. 63, § 3, p. 161.]

STATUTORY NOTES

Amendments. — This section was amended by three 2004 acts which appear to be compatible and have been compiled together.

The 2004 amendment, by ch. 126, § 4, inserted “licensed physician assistant, or licensed advance practice professional nurse” in present subsection (11)(b).

The 2004 amendment, by ch. 297, § 3, added present subsection (5) and redesignated the remaining subsections accordingly.

The 2004 amendment, by ch. 339, § 1, inserted “or shall be renewed upon application in person without the requirement to take a knowledge or skills test if their Idaho driver’s license expired while on active duty” in present subsection (8).

The 2008 amendment, by ch. 63, added subsection (3) and redesignated the subsequent subsections accordingly; and in subsection (7), added the exception at the end of the second and third sentences.

Compiler’s Notes. — This section was formerly compiled as § 49-322 and was

amended and redesignated by § 53 of S.L. 1988, ch. 265 to become this section.

Former § 49-319 was amended and redesignated as § 49-316 by § 50 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver’s licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.”

Section 4 of S.L. 2000, ch. 56 provides that the act shall be in full force and effect on and after January 1, 2001.

Section 6 of S.L. 2001, ch. 332 provided that the act should take effect on and after January 1, 2002.

Section 2 of S.L. 2004, ch. 339 declared an emergency. Approved March 25, 2004.

JUDICIAL DECISIONS

Cited in: *State v. Bissett*, 116 Idaho 477, 776 P.2d 1196 (Ct. App. 1989).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 100 et seq.

49-320. Notice of change of address. — It is the responsibility of every licensed driver and every person applying for a driver’s license to keep a current address on file with the department.

(1) Whenever any person after applying for or receiving a driver’s license shall move from the address shown in the application or in the driver’s license issued, that person shall, within thirty (30) days, notify the department in writing of the old and new addresses.

(2) Whenever any statute or rule requires a driver to receive notice of any official action with regard to the person’s driver’s license or driving privileges taken or proposed by a court or the department, notification by first class mail at the address shown on the application for a driver’s license or at the address shown on the driver’s license or at the address given by the driver, shall constitute all the legal notice that is required.

(3) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (1) of this

section. [1935, ch. 88, § 23, p. 154; am. and redesign. 1988, ch. 265, § 54, p. 549; am. 1989, ch. 88, § 32, p. 151; am. 1996, ch. 371, § 12, p. 1246; am. 1998, ch. 110, § 23, p. 375; am. 2000, ch. 304, § 1, p. 1035; am. 2003, ch. 157, § 2, p. 442.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-323 and was amended and redesignated by § 54 of S.L. 1988, ch. 265 to become this section. Former § 49-320 was amended and redesignated as § 49-317 by § 51 of S.L. 1988, ch. 265.

49-321. Records to be kept by the department. — (1) The department shall file every application for a driver's license received by it and shall maintain suitable indices containing:

- (a) All applications denied and on each note the reason for denial;
- (b) All applications granted;
- (c) The name of every licensee whose driver's license has been suspended, revoked, canceled, denied or disqualified by the department and after each name note the reasons for the action;
- (d) The driver's license number for the applicant; and
- (e) The social security number of the applicant.

(2) The department shall also file all accident reports and abstracts of court records of convictions received by it under the law from any jurisdiction, and is authorized to forward records of convictions, suspensions or disqualifications to any jurisdiction. Records may be in either paper or electronic form. The department shall maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions and the traffic accidents in which the licensee has been involved shall be readily ascertainable and available for consideration of the department upon any application for renewal of a driver's license and at other suitable times.

(3) The department of health and welfare, on or about the 25th day of each month shall, upon the request of the department, furnish the department a listing showing the name, age, county of residence, and residence address of each Idaho resident who has died during the preceding month. The listing shall be used only for purposes of updating the driver's license files of the department and shall be subject to disclosure according to chapter 3, title 9, Idaho Code. [1935, ch. 88, § 24, p. 154; am. 1937, ch. 160, § 1, p. 258; am. 1939, ch. 225, § 3, p. 498; am. 1974, ch. 95, § 1, p. 1194; am. 1982, ch. 95, § 46, p. 185; am. and redesign. 1988, ch. 265, § 55, p. 549; am. 1989, ch. 88, § 33, p. 151; am. 1990, ch. 45, § 23, p. 71; am. 1990, ch. 213, § 69, p. 480; am. 1998, ch. 110, § 24, p. 375; am. 2000, ch. 52, § 2, p. 100; am. 2006, ch. 164, § 6, p. 489.]

STATUTORY NOTES

Amendments. — This section was amended in 1989 by S.L. 1989, Chapter 88, § 33, and was amended twice in 1990, by Chapter 45, § 23, and Chapter 213, § 69. The amendment by Chapter 45, § 23 amended the section as previously amended by S.L. 1989,

Chapter 88, § 33, while the amendment by Chapter 213, § 69 amended the section as previously amended in 1988. Since there is no conflict these amendments have been compiled together.

The 1990 amendment, by ch. 45, § 23, added subdivision (1)(e).

The 1990 amendment, by ch. 213, § 69, in subsection (3) at the end of the second sentence deleted "remain confidential"; deleted a former third sentence which read "The listing shall not be duplicated by the department and shall be returned to the department of health and welfare no later than five (5) working days following the date of its receipt by the department"; and added the words "be subject to disclosure according to chapter 3, title 9, Idaho Code" at the end of the second sentence.

The 2006 amendment, by ch. 164, substituted "from any jurisdiction, and is authorized to forward records of convictions, suspensions or disqualifications to any jurisdiction. Records may be in either paper or electronic form. The department shall" for "in either paper or electronic form and" in subsection (2).

Compiler's Notes. — This section was formerly compiled as § 49-324 and was amended and redesignated by § 55 of S.L. 1988, ch. 265 to become this section.

Former § 49-321 was amended and redesignated as § 49-318 by § 52 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

Section 111 of S.L. 1990, ch. 213 as amended by § 16 of S.L. 1991, ch. 329 provided that §§ 3 through 45 and 48 through 110 of the act should take effect July 1, 1993 and that §§ 1, 2, 46 and 47 should take effect July 1, 1990.

Section 3 of S.L. 2000, ch. 52 declared an emergency. Approved March 22, 2000.

49-322. Authority of department to cancel driver's license or instruction permit. — (1) The department shall cancel any driver's license, restricted school attendance driving permit, or instruction permit upon determining that the licensee or permittee was not entitled to the issuance of the driver's license or instruction permit, or that the licensee or permittee failed to give the required or correct information in his application, or committed fraud in making the application.

(2) Upon a cancellation, the licensee or permittee shall surrender the canceled driver's license or canceled instruction permit to the department.

(3) The department shall cancel a person's commercial driver's license upon determining that the class A, B, or C licensee has falsified information. Upon cancellation of a class A, B, or C driver's license, the licensee shall be disqualified from operating a commercial motor vehicle for a period of sixty (60) days.

(4) When a driver's license has been canceled for reasons of impairment, incompetence or inability of the licensed driver to operate a motor vehicle safely as provided in section 49-303 or 49-326, Idaho Code, and the licensee has voluntarily surrendered his driver's license, or when a licensed driver requests cancellation of his license for any of the same reasons stated in this subsection and he voluntarily surrenders his license, the licensee may be eligible for a no-fee identification card as provided in section 49-2444, Idaho Code. [1935, ch. 88, § 25, p. 154; am. and redesign. 1988, ch. 265, § 56, p. 549; am. 1989, ch. 88, § 34, p. 151; am. 1992, ch. 115, § 16, p. 345; am. 1999, ch. 79, § 1, p. 225; am. 2000, ch. 214, § 11, p. 583; am. 2002, ch. 235, § 8, p. 696.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-325 and was amended and redesignated by § 56 of S.L. 1988, ch. 265 to become this section.

Former § 49-322 was amended and reded-

ignated as § 49-319 by § 53 of S.L. 1988, ch. 265.

Effective Dates. — Section 13 of S.L. 2000, ch. 214 provides this act shall be in full force and effect on and after January 1, 2001.

JUDICIAL DECISIONS

Non-renewal Authorized.

Idaho department of transportation did not err in refusing to renew a driver's license, after discovering the motorist's Florida driving privileges had been previously revoked for

convictions of driving under the influence of alcohol, under the terms of the interstate driver's license compact, §§ 49-2001 — 49-2003. *Marshall v. Idaho DOT*, 137 Idaho 337, 48 P.3d 666 (Ct. App. 2002).

49-323. Suspending privileges of nonresidents and reporting convictions. — (1) The privilege of driving a motor vehicle on the highways given to a nonresident shall be subject to suspension, disqualification or revocation by the department in a like manner and for a like cause as a driver's license issued to a resident may be suspended, disqualified or revoked.

(2) Upon receipt of a record of the conviction, suspension, disqualification or revocation in this state of a nonresident driver for any offense under the motor vehicle laws, the department shall forward a certified copy or electronic transfer of the record of the conviction, suspension, disqualification or revocation and its cause to the motor vehicle administrator in the state wherein the person so convicted is a resident and to the national driver register. [1935, ch. 88, § 26, p. 154; am. and redesig. 1988, ch. 265, § 57, p. 549; am. 1989, ch. 88, § 35, p. 151; am. 1990, ch. 45, § 24, p. 71; am. 2006, ch. 164, § 7, p. 489.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 164, inserted "suspension, disqualification or revocation" and "of the conviction, suspension, disqualification or revocation and its cause" in subsection (2).

Compiler's Notes. — This section was formerly compiled as § 49-326 and was amended and redesignated by § 57 of S.L. 1988, ch. 265 to become this section.

Former § 49-323 was amended and redesignated as § 49-320 by § 54 of S.L. 1988, ch. 265.

The national driver register, referred to in subsection (3), is a database of information about drivers who have had their licenses

revoked or suspended, or who have been convicted of serious traffic violations maintained by the national highway traffic safety administration.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-324. Suspending resident's license and privileges upon conviction, administrative action or court order in another state or jurisdiction. — The department shall suspend, disqualify or revoke the driver's license or privilege of any resident of this state or the privilege of a nonresident to operate a motor vehicle in this state upon receiving notice of

the conviction, administrative action or court order of that person in another state or jurisdiction of an offense which, if committed in this state, would be grounds for the suspension, disqualification or revocation of the driver's license and privileges of the driver. The department shall forward a certified copy or electronic transfer to the national driver register. [1935, ch. 88, § 27, p. 154; am. 1951, ch. 183, § 13, p. 383; am. and redesign. 1988, ch. 265, § 58, p. 549; am. 1989, ch. 88, § 36, p. 151; am. 1990, ch. 45, § 25, p. 71; am. 1992, ch. 115, § 17, p. 345; am. 1998, ch. 110, § 25, p. 375; am. 2004, ch. 126, § 5, p. 422.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-327 and was amended and redesignated by § 58 of S.L. 1988, ch. 265 to become this section.

Former § 49-324 was amended and redesignated as § 49-321 by § 55 of S.L. 1988, ch. 265.

The national driver register, referred to in subsection (3), is a database of information about drivers who have had their licenses revoked or suspended, or who have been convicted of serious traffic violations maintained

by the national highway traffic safety administration.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 116 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 311.

A.L.R. — Validity and application of stat-

ute or regulation authorizing revocation or suspension of driver's license for reason unrelated to use of, or ability to operate, motor vehicle. 18 A.L.R.5th 542.

49-325. Mandatory revocation by department — Temporary restricted permit. — (1) The department shall revoke the operating privilege of any driver upon receiving a record of the person's conviction of any of the following offenses, when the conviction has become final, if the court has not ordered the suspension or revocation of the privilege:

(a) Vehicular manslaughter;

(b) Any felony in the commission of which a motor vehicle is used, except that a court of competent jurisdiction shall have exclusive authority to suspend or revoke operating privileges upon conviction of a violation of the provisions of section 18-8004 or 18-8006, Idaho Code;

(c) Perjury or the making of a false affidavit or statement under oath to the department under any law relating to the ownership or operation of motor vehicles;

(d) Conviction, or forfeiture of bail, upon three (3) charges of reckless driving committed within a period of twelve (12) months;

(e) Conviction of a violation of the provisions of section 49-1301, Idaho Code. Revocation in this event shall be for a period of not less than one (1) year.

(2) Whenever any driver's license, permit or operating privilege has been revoked by the department on the basis of subsections (1)(b) through (1)(e) of this section, the department may issue a temporary restricted permit,

except when restricted operating privileges are specifically prohibited by other provisions of law.

(a) A temporary restricted permit shall specify the restrictions as to time and area of use and any further restrictions as the department, in its discretion, may impose.

(b) A temporary restricted permit may be issued to grant noncommercial driving privileges, but no temporary restricted permit shall be issued which grants driving privileges to operate a commercial motor vehicle. [1935, ch. 88, § 29, p. 154; am. 1955, ch. 163, § 1, p. 323; am. 1963, ch. 362, § 1, p. 1032; am. 1969, ch. 458, § 2, p. 1269; am. 1974, ch. 27, § 111, p. 811; am. 1982, ch. 95, § 48, p. 185; am. 1983 (Ex. Sess.), ch. 3, § 3, p. 8; am. 1984, ch. 22, § 3, p. 25; am. and redesi. 1988, ch. 265, § 59, p. 549; am. 1989, ch. 88, § 37, p. 151; am. 2005, ch. 352, § 7, p. 1085.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-329 and was amended and redesignated by § 59 of S.L. 1988, ch. 265 to become this section.

Former § 49-325 was amended and redesignated as § 49-322 by § 56 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Revocation of Privileges.

A reading of the sentencing provisions set forth in § 18-4007 makes it clear that a court-imposed license suspension for a violation of § 18-4006(3) is unauthorized and hence "illegal." Under the provisions of this

section, the Idaho transportation department has the authority to revoke the driving privileges of an individual convicted of § 18-4006(3). *State v. Howard*, 122 Idaho 9, 830 P.2d 520 (1992).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 116 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 290 et seq.

A.L.R. — Regulations establishing a "point system" as regards suspension or revocation of license of operator of motor vehicle. 5 A.L.R.3d 690.

Necessity of notice and hearing before revocation or suspension of motor vehicle driver's license. 60 A.L.R.3d 361.

Sufficiency of notice and hearing before revocation or suspension of motor vehicle driver's license. 60 A.L.R.3d 427.

What constitutes driving, operating, or being in control of motor vehicle for purposes of driving while intoxicated statute or ordinance. 93 A.L.R.3d 7.

Validity and construction of legislation authorizing revocation or suspension of operator's license for "habitual," "persistent," or "frequent" violations of traffic regulations. 48 A.L.R.4th 367.

Validity and application of statute or regulation authorizing revocation or suspension of driver's license for reason unrelated to use of, or ability to operate, motor vehicle. 18 A.L.R.5th 542.

49-326. Authority of department to suspend, disqualify or revoke driver's license and privileges. — (1) If the court has not ordered the suspension of a license or privileges, the department is authorized to suspend, disqualify or revoke the license or privileges of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the driver:

- (a) Has committed an offense for which mandatory revocation, suspension or disqualification of license or privileges is required upon conviction, court order or administrative action;
- (b) Has been convicted in any court in this state of an offense against a municipal ordinance which would have been grounds for suspension, revocation or disqualification of his driver's license or privileges had the charge been prosecuted under a state law;
- (c) Is incompetent to drive a motor vehicle;
 - 1. Any person who in the opinion of the department, based upon recommendation of the person's personal physician, is afflicted with or subject to any condition which brings about momentary or prolonged lapses of consciousness or control, which is or may become chronic, or when the person is suffering from a physical or mental disability or disease serving to prevent him from exercising reasonable and ordinary control over a motor vehicle while operating it upon the streets and highways, or any person who is unable to understand highway signs, warning, regulating or directing traffic, is incompetent to drive a motor vehicle.
 - 2. Any person who shall not have minimum visual acuity with or without corrective lenses of 20/40 in at least one (1) eye as determined by the Snellen system or other available systems is incompetent to operate a motor vehicle, however, the department shall have the authority to license such person upon the recommendation of an ophthalmologist or qualified physician and upon passage of a skills test. At 20/70 or more in both eyes with or without corrective lenses the department may suspend the driver's license and privileges. Any person who applies for or receives any type of tax, welfare or other benefits or exemptions for the blind shall be conclusively presumed incompetent to operate a motor vehicle.
 - 3. Any person, department, or political subdivision of the state of Idaho who receives an application for any type of tax, welfare, aid or other benefits or exemptions for the blind shall immediately forward the name, address, sex, date of birth, and date of application of the applicant to the department;
- (d) Has permitted an unlawful or fraudulent use of a driver's license;
- (e) Has committed an offense in another state or jurisdiction as evidenced by a conviction, court order or administrative action, which if committed in Idaho would be grounds for suspension, disqualification or revocation;
- (f) Has been convicted of the offense of reckless driving, or fleeing or attempting to elude a peace officer, and providing that the operating privilege shall be suspended for a period of thirty (30) days upon conviction and providing further, that if a second conviction occurs within a two (2) year period of time from the time of the first conviction, the suspension shall be for ninety (90) days, and if a third conviction shall occur within a three (3) year period of time from the time of the first conviction, the period of suspension shall be for one (1) year;
- (g) Has failed to satisfy a judgment as set forth in chapter 12, title 49, Idaho Code;

- (h) Has failed to maintain proof of financial responsibility as set forth in chapter 12, title 49, Idaho Code;
- (i) Has a driving record which shows a violation point count of twelve (12) or more points in any consecutive twelve (12) month period;
- (j) Is an habitual violator of traffic laws;
- (k) Has been convicted of the offense of violation of a restricted license and providing the driver's license and privileges be suspended for a period of thirty (30) days;
- (l) Has been convicted for the offense of leaving the scene of an accident involving damages to a vehicle, the period of revocation shall be one (1) year;
- (m) Has been convicted for the offense of leaving the scene of an accident resulting in injury or death, the period of revocation shall be one (1) year;
- (n) Is under the age of eighteen (18) years and is not satisfactorily enrolled in school, has not received a waiver pursuant to or has not completed school as provided in section 49-303A, Idaho Code;
- (o) Was cited under the age of seventeen (17) years and subsequently received a conviction involving a moving traffic violation arising out of the operation of a motor vehicle, and providing the driver shall be sent a written warning from the Idaho transportation department for a first conviction; the driver's license shall be suspended for a period of thirty (30) days for a second conviction; and the driver's license shall be suspended for a period of sixty (60) days for a third or subsequent conviction; and providing further that no restricted driving privileges shall be issued during any period of suspension hereunder.

(2) A violation point is assessed for conviction of any charge or with proof of any infraction involving a moving traffic violation. A value of one (1) point shall be given for a less serious violation and up to four (4) points for a more serious violation. Conviction or proof of infraction for only one (1) violation arising from one (1) occasion of arrest or citation shall be counted in determining the violation point count.

(3) The department is authorized and directed to establish a violation point count system for various moving traffic violations and infractions occurring either within or without the state of Idaho, affecting all holders of driver's licenses issued by the department.

(4) Notification of suspension, revocation, cancellation or disqualification. Upon suspending, revoking, canceling or disqualifying the driver's license or driving privileges of any person, the department shall immediately notify the applicant or licensee in writing, at the licensee's address on file with the department pursuant to section 49-320, Idaho Code. Upon his request the department shall afford him an opportunity for a hearing before a hearing officer appointed by the director. The hearing may be held by telephone within twenty (20) days after receipt of the request, unless this period is for good cause shown, extended by the hearing officer for one ten-day period. The notice and hearing shall be required prior to the imposition of additional suspension or disqualification periods beyond the periods as set forth in this section. Upon a hearing the hearing officer may administer oaths, may issue subpoenas for the attendance of witnesses and the

production of relevant books and papers, and may require a reexamination of the licensee. Upon the hearing the department shall either rescind its order or, with good cause, may affirm or extend the suspension or disqualification of the driver's license or revoke the driver's license.

Whenever a driver's license, permit or driving privilege has been suspended or revoked by the department as provided in this section, other than as set forth in subsection (1)(c), (d), (g), (h), (m), (n) or (o) of this section, the department may issue a temporary restricted permit restricting the time, area and purpose of use. The application, eligibility requirements and form of the temporary restricted permit shall be provided by administrative rule. A temporary restricted permit may be issued to grant noncommercial driving privileges, but no temporary restricted permit shall be issued which grants driving privileges to operate a commercial motor vehicle.

(5) The department shall not suspend or revoke a driver's license or privileges for a period of more than one (1) year, unless otherwise provided by law. The provisions of this subsection shall not be applicable with respect to the issuance of temporary restricted permits as provided in section 49-325, Idaho Code, nor shall it be applicable to those suspensions placed on an individual's record for the purpose of administering suspensions ordered to take effect after an individual's release from confinement or imprisonment pursuant to chapter 80, title 18, Idaho Code.

(6) The department shall not disqualify a driver for a period longer than specified by 49 CFR part 383. [1935, ch. 88, §§ 30, 31, p. 154; am. 1955, ch. 163, § 2, p. 323; am. 1959, ch. 236, § 1, p. 505; am. 1961, ch. 190, § 1, p. 283; am. 1963, ch. 362, § 2, p. 1032; am. 1965, ch. 97, § 1, p. 180; am. 1967, ch. 353, § 1, p. 996; am. 1967, ch. 378, § 1, p. 1113; am. 1969, ch. 458, § 3, p. 1269; am. 1974, ch. 27, § 112, p. 811; am. 1976, ch. 53, § 1, p. 187; am. 1981, ch. 223, § 19, p. 415; am. 1982, ch. 95, § 49, p. 185; am. 1982, ch. 353, § 13, p. 864; am. 1983 (Ex. Sess.), ch. 3, § 4, p. 8; am. 1984, ch. 22, § 4, p. 25; am. 1986, ch. 208, § 1, p. 531; am. and redesi. 1988, ch. 265, § 60, p. 549; am. 1989, ch. 88, § 38, p. 151; am. 1990, ch. 45, § 26, p. 71; am. 1992, ch. 115, § 18, p. 345; am. 1994, ch. 357, § 2, p. 1117; am. 1996, ch. 348, § 3, p. 1159; am. 1996, ch. 371, § 13, p. 1246; am. 1997, ch. 238, § 4, p. 689; am. 1998, ch. 110, § 26, p. 375; am. 1998, ch. 152, § 2, p. 523; am. 1999, ch. 81, § 13, p. 237; am. 2000, ch. 214, § 12, p. 583; am. 2004, ch. 126, § 6, p. 422; am. 2005, ch. 352, § 8, p. 1085.]

STATUTORY NOTES

Cross References. — Driving privileges upon incarceration, § 18-8041.

Amendments. — This section was amended by two 1996 acts — ch. 348, § 3, and ch. 371, § 13, both effective July 1, 1996 — which do not appear to conflict and have been compiled together.

The 1996 amendment, by ch. 348, § 3, added subdivision (1)(n); and in subsection (4), in the first sentence of the second paragraph, substituted "subsection (1)(c), (d), (g), (h), (m), or (n)" for "subsections (1)(c), (d), (g), (h) or (m)".

The 1996 amendment, by ch. 371, § 13, in subsection (4), added the first sentence, substituted the present second and third sentences for the former second sentence which read, "Upon suspending, revoking or disqualifying the driver's license or privileges of any person, the department shall immediately notify the licensee in writing, and upon his request shall afford him an opportunity for a hearing before the director", in the present third sentence, substituted "twenty-one (21) days" for "twenty (20) days" and in the last sentence of the first paragraph, inserted "af-

firm or" preceding "extend".

This section was amended by two 1998 acts — ch. 110, § 26 and ch. 152, § 2, both effective July 1, 1998, which do not appear to conflict except for one instance detailed below and have been compiled together.

The 1998 amendment, by ch. 110, § 26, in subdivision (1)(a), inserted "suspension," and added "court order or administrative action" at the end of the subdivision, in subdivision (1)(e), inserted "as evidenced by a conviction, court order or administrative action," in the first sentence of subsection (5), deleted "and upon revoking a driver's license or privileges shall not in any event grant application for a new driver's license until the expiration of one (1) year after the revocation" following "a period of more than one (1) year," and added "except as otherwise provided by law" at the end of the sentence.

The 1998 amendment, by ch. 152, § 2, in the first sentence of subsection (5), inserted "or revoke," deleted "and upon revoking a driver's license or privileges shall not in any event grant application for a new driver's license until the expiration of one (1) year after the revocation" added "unless otherwise provided by law" at the end of the sentence,

and added "nor shall it be applicable to those suspensions placed on an individual's record for the purpose of administering suspensions ordered to take effect after an individual's release from confinement or imprisonment pursuant to chapter 80, title 18, Idaho Code" at the end of the second sentence.

Compiler's Notes. — Section 60 of S.L. 1988, ch. 265 amended and redesignated §§ 49-330 and 49-331 to become this section.

Former § 49-326 was amended and redesignated as § 49-323 by § 57 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

Section 3 of S.L. 1996, ch. 348 became law without the governor's signature, July 1, 1996.

Section 13 of S.L. 2000, ch. 214 provides this act shall be in full force and effect on and after January 1, 2001.

JUDICIAL DECISIONS

Suspension of Operator's License.

Where defendant was not convicted of any offense under the city ordinance, the order of the commissioner of law enforcement suspending defendant's operator's license on the basis of bond forfeiture was invalid. *Valente v. Mills*, 93 Idaho 212, 458 P.2d 84 (1969).

Where defendant was originally charged under former § 49-330 (redesignated as this section), and then was charged under former § 49-1532(a) which stated that prior suspension of license must have been made under

"this act" which did not include defendant's original suspension conviction was nevertheless upheld because defendant's license would not have been suspended originally if he had not failed to post proof of insurance; therefore, defendant's license was originally suspended under former § 49-1517 (redesignated as § 49-1208) and the suspension was one that fell "under this act" under the terms of former § 49-1532. *State v. Bedard*, 120 Idaho 869, 820 P.2d 1226 (1991).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 116 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 290 et seq.

A.L.R. — Regulations establishing a "point system" as regards suspension or revocation of license of operator of motor vehicle. 5 A.L.R.3d 690.

Denial, suspension, or cancellation of driver's license because of physical disease or defect. 38 A.L.R.3d 452.

Necessity and sufficiency of notice and hearing before revocation or suspension of

motor vehicle driver's license. 60 A.L.R.3d 361, 427.

Validity and construction of legislation authorizing revocation or suspension of operator's license, for "habitual," "persistent," or "frequent" violations of traffic regulations. 48 A.L.R.4th 367.

Validity and application of statute or regulation authorizing revocation or suspension of driver's license for reason unrelated to use of, or ability to operate, motor vehicle. 18 A.L.R.5th 542.

49-326A. Administration by department of judicial suspensions of driver's licenses or privileges to become effective after release from confinement. — When a court's judgment or order provides that the suspension of an individual's driver's license or driving privileges shall begin after the individual is released from confinement or imprisonment, the department, for purposes of administering the ordered suspension, shall consider the driver's license or driving privileges as suspended effective as of the end of the last day of the fixed portion of the ordered sentence, as shown by the judgment or sentencing order of the court.

(1) Unless otherwise ordered by the court, the suspension shall remain in effect until the individual applies for reinstatement of his or her driver's license or driving privileges and can provide verifiable documentation to establish the date of release from confinement or imprisonment and show that the court-ordered suspension period has expired since the individual's release. Upon such a showing, the department will reinstate the individual's driver's license or driving privileges as provided by law.

(2) Where the department is notified of the release of the individual, either by the court or the agency having custody over the individual during the period of confinement or imprisonment, the department shall amend its records to reflect the actual court-ordered period of suspension.

(3) No time credit against the court-ordered period of suspension will be given while the individual is incarcerated or if the individual is reincarcerated. The entire period of the court-ordered suspension must run after the individual is released from confinement or imprisonment. [I.C., § 49-326A, as added by 1998, ch. 152, § 3, p. 523; am. 2008, ch. 45, § 1, p. 118.]

STATUTORY NOTES

Amendments. — The 2008 amendment, by ch. 45, in the section catchline, substituted "driver's licenses" for "drivers' licenses" and

changed the designation scheme for the section.

JUDICIAL DECISIONS

Requirements Inapplicable.

Trial court did not err by dismissing passenger's claim against the division of motor vehicles (DMV) on immunity grounds, and, therefore, the DMV was properly granted

summary judgment, because the DMV's reinstatement of the drunk driver's license was not grossly negligent or reckless, willful, and wanton. *Cafferty v. State*, — Idaho —, 160 P.3d 763 (2007).

49-327. Surrender of driver's license — Application for duplicate. — (1) Upon suspending, canceling or revoking a driver's license, the department shall require that the driver's license be surrendered to the department. At the end of the period of suspension, revocation or cancellation the driver may apply for a duplicate driver's license, provided that the driver is eligible and has fulfilled all reinstatement requirements.

(2) If any person shall fail to return to the department the Idaho driver's license as required, the department may direct any peace officer to secure its possession and return the driver's license to the department. [1935, ch. 88,

§ 32, p. 154; am. and redesisg. 1988, ch. 265, § 61, p. 549; am. 1989, ch. 88, § 39, p. 151; am. 1992, ch. 115, § 19, p. 345; am. 2008, ch. 18, § 3, p. 27.]

STATUTORY NOTES

Amendments. — The 2008 amendment, by ch. 18, rewrote the section catchline, which formerly read: "Surrender and return of driver's license"; and in subsection (1), in the first sentence, deleted "and be retained by" following "surrendered to," and in the last sentence, substituted "the driver may apply for a duplicate driver's license, provided that the driver is eligible and has fulfilled all reinstatement requirements" for "the driver's license, so sur-

rendered shall be returned to the licensee if applicable."

Compiler's Notes. — This section was formerly compiled as § 49-332 and was amended and redesignated by § 61 of S.L. 1988, ch. 265 to become this section.

Former § 49-327 was amended and redesignated as § 49-324 by § 58 of S.L. 1988, ch. 265.

49-328. Reinstatement of revoked, disqualified or suspended driver's license — Fee — When reinstatement prohibited. —

(1) When the period of revocation, disqualification or suspension of a driver's license has expired, or the reason for the revocation, disqualification or suspension no longer exists, the department shall reinstate the driver's license or driving privileges on application of the driver.

(2) The application shall be in the form prescribed by the department and accompanied by a reinstatement fee of fifteen dollars (\$15.00) which shall be deposited in the state highway account.

(3) A driver's license which has been suspended under section 49-1505, Idaho Code, for failure to pay an infraction penalty shall not be reinstated until the licensee provides proof that the infraction penalty has been paid to the court.

(4) In addition to any other fees required in this section to be collected, the department shall collect fifty dollars (\$50.00) for reinstating a driver's license after conviction for driving under the influence, without privileges, and after conviction or other violation of any other traffic related misdemeanor or infraction, of which fees forty dollars (\$40.00) shall be paid over to the county treasurer of the county in which the conviction occurred for support of that county's justice fund, or the current expense fund if no county justice fund has been established and the ten dollars (\$10.00) shall be deposited in the state highway account.

(5) In addition to any other fees required in this section to be collected, the department shall collect one hundred fifteen dollars (\$115) for reinstating a driver's license after a suspension imposed under the provisions of section 18-8002 or section 18-8002A, Idaho Code, or after a revocation, disqualification or suspension arising out of any alcohol or drug related offense, other than a suspension imposed upon a person under eighteen (18) years of age pursuant to section 18-1502(d), Idaho Code. Funds collected pursuant to this subsection shall be deposited in the state highway account. The department shall reevaluate the amount of the reinstatement fee herein imposed not later than February, 2000, to determine the sufficiency of the fee to meet the costs associated with the implementation of section 18-8002A, Idaho Code.

(6) When there is more than one (1) reason why a driver's license was revoked or suspended or why a driver was disqualified, the department shall not collect multiple fees for reinstatement, but shall only collect one (1) reinstatement fee, which shall be the greater reinstatement fee, provided however, the department shall collect a reinstatement fee for each revocation, disqualification or suspension under chapter 80, title 18, Idaho Code. [I.C., § 49-331A, as added by 1983, ch. 25, § 5, p. 66; am. 1984, ch. 195, § 24, p. 445; am. 1986, ch. 203, § 3, p. 506; am. and redesign. 1988, ch. 265, § 62, p. 549; am. 1989, ch. 88, § 40, p. 151; am. 1990, ch. 45, § 27, p. 71; am. 1990, ch. 216, § 3, p. 579; am. 1990, ch. 432, § 2, p. 1198; am. 1992, ch. 115, § 20, p. 345; am. 1993, ch. 413, § 3, p. 1515; am. 1994, ch. 357, § 3, p. 1117; am. 1997, ch. 227, § 2, p. 689; am. 1997, ch. 238, § 5, p. 664; am. 1999, ch. 81, § 14, p. 237; am. 2008, ch. 18, § 4, p. 27.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Prior Laws. — Former § 49-328, which comprised I.C., § 49-328, as added by 1982, ch. 353, § 12, p. 874, was repealed by S.L. 1988, ch. 265, § 34, effective January 1, 1989.

Amendments. — This section was amended by two 1997 acts — ch. 227, § 2, effective July 1, 1997 and ch. 238, § 5, effective January 1, 1998 — which do not appear to conflict and have been compiled together.

The 1997 amendment, by ch. 227, § 2, in present subsection (4) substituted "fifty dollars (\$50.00)" for "twenty-five dollars (\$25.00)" following "department shall collect", substituted "forty dollars (\$40.00)" for "twenty dollars (\$20.00)" following "infraction, of which fees" and substituted "ten dollars (\$10.00)" for "five dollars (\$5.00)" following "established and the".

The 1997 amendment, by ch. 358, § 5, designated the former second sentence of subsection (1) as the present subsection (2) and renumbered former subsections (2)-(4) as present subsections (3)-(5), in present subsection (5) in the last sentence substituted "2000" for "1996" following "February", and added subsection (6).

The 2008 amendment, by ch. 18, in subsections (5) and (6), inserted "revocation, disqualification or."

Compiler's Notes. — This section was

formerly compiled as § 49-331A and was amended and redesignated by § 62 of S.L. 1988, ch. 265 to become this section.

Section 6 of S.L. 1990, ch. 216 read: "The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act."

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

Section 10 of S.L. 1990, ch. 432 provided: "The provisions of Sections 1 through 8 of this act shall become effective on a date to be determined by the Director of the Transportation Department which date shall be enumerated in a proclamation signed by the Director and filed with the Secretary of State, but in no event later than September 1, 1990."

Section 4 of S.L. 1993, ch. 413 read: "Section 3 of this act shall be in full force and effect on and after July 1, 1993. The remaining sections of this act shall be in full force and effect on and after July 1, 1994."

JUDICIAL DECISIONS

ANALYSIS

Immune from liability.
Length of suspension.

Immune from Liability.

Trial court did not err by dismissing passenger's claim against the division of motor vehicles (DMV) on immunity grounds, and, therefore, the DMV was properly granted summary judgment, because the DMV's reinstatement of the drunk driver's license was not grossly negligent or reckless, willful, and wanton. *Cafferty v. State*, — Idaho —, 160 P.3d 763 (2007).

nature of a license suspension for a definite period of time, in conflict with § 49-1208(2) which mandates that a suspension continue indefinitely unless a driver maintains proof of financial responsibility. *State v. Resendiz-Fortanel*, 131 Idaho 488, 959 P.2d 845 (Ct. App. 1998).

Cited in: *State v. Reichenberg*, 128 Idaho 452, 915 P.2d 14 (1996).

Length of Suspension.

Read together, subsection (1) of this section and § 49-120(31) recognize the temporary

49-329. No operation under foreign license during suspension or revocation in Idaho. — No resident or nonresident whose driver's license or right or privilege to operate a motor vehicle in Idaho has been suspended or revoked shall operate a motor vehicle in this state under a driver's license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after revocation until a new driver's license is obtained when and as permitted under this chapter. [1935, ch. 88, § 33, p. 154; am. and redesi. 1988, ch. 265, § 63, p. 549; am. 1989, ch. 88, § 41, p. 151.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-333 and was amended and redesignated by § 63 of S.L. 1988, ch. 265 to become this section.

Former § 49-329 was amended and redesignated as § 49-325 by § 59 of S.L. 1988, ch. 265.

49-330. Right of appeal to court. — Any person denied a driver's license by the department or whose driver's license has been cancelled, suspended, disqualified, revoked, or restricted by the department shall have the right to file a petition for judicial review pursuant to chapter 52, title 67, Idaho Code. [1935, ch. 88, § 34, p. 154; am. 1961, ch. 190, § 2, p. 283; am. 1974, ch. 27, § 113, p. 811; am. 1982, ch. 95, § 50, p. 185; am. 1983 (Ex. Sess.), ch. 3, § 5, p. 8; am. and redesi. 1988, ch. 265, § 64, p. 549; am. 1989, ch. 88, § 42, p. 151; am. 1990, ch. 45, § 28, p. 71; am. 1997, ch. 238, § 6, p. 689.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-334 and was amended and redesignated by § 64 of S.L. 1988, ch. 265 to become this section.

Former § 49-330 was amended and redesignated as § 49-326 by § 60 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each

applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

Section 7 of S.L. 1997, ch. 328 provided that §§ 1, 2, 4, 5, and 6 of the act should be in effect on and after July 1, 1997 and that § 3 should be in effect on and after January 1, 1998.

JUDICIAL DECISIONS

Appeal Under Administrative Procedures Act.

Where an individual whose license to operate a motor vehicle was suspended by the commissioner, he could appeal therefrom under this section or under the administrative

procedure act (§ 67-5201 et seq.), as the legislature intended to make available a uniform method of reviewing administrative action, but did not intend to abolish those methods of review already in existence. *Mills v. Swanson*, 93 Idaho 279, 460 P.2d 704 (1969).

49-331. Unlawful use of driver's license. — It is a misdemeanor for any person:

(1) To display or cause or permit to be displayed or have in his possession any mutilated or illegible, cancelled, revoked, suspended, disqualified, fictitious or fraudulently altered driver's license;

(2) To lend his driver's license to any other person or knowingly permit the use of his driver's license by another;

(3) To display or represent as one's own a driver's license not issued to him;

(4) To fail or refuse to surrender to the department, upon its lawful demand, any driver's license which has been suspended, revoked, disqualified or cancelled;

(5) To use a false or fictitious name in any application for a driver's license, or to knowingly make a false statement, or to knowingly conceal a material fact or otherwise commit a fraud in any application;

(6) To permit any unlawful use of a driver's license issued to him; or

(7) To manufacture, produce, sell, offer for sale or transfer to another person any document purporting to be a certificate of birth or driver's license.

In addition to the misdemeanor penalties that may be imposed for violation of the provisions of paragraphs (1) through (7) of this section, the court upon conviction may enter an order directing the department to suspend the driver's license, a permit to drive, privileges or any nonresident's driving privileges for a period of ninety (90) days. A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code. [1935, ch. 88, § 35, p. 154; am. 1979, ch. 69, § 1, p. 175; am. and redesign. 1988, ch. 265, § 65, p. 549; am. 1989, ch. 88, § 43, p. 151; am. 1989, ch. 342, § 1, p. 865; am. 1990, ch. 45, § 29, p. 71; am. 1992, ch. 115, § 21, p. 345; am. 2000, ch. 327, § 4, p. 1101.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-335 and was amended and redesignated by § 65 of S.L. 1988, ch. 265 to become this section.

Former § 49-331 was amended and redesignated as subsection (5) of § 49-326 by § 60 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined

by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

Cited in: State v. Brown, 139 Idaho 707, 85 P.3d 683 (Ct. App. 2004).

49-331A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-331A was amended and redesignated as § 49-328 by § 62 of S.L. 1988, ch. 265.

49-332. Making false affidavit perjury. — Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the provisions of this chapter to be sworn to or affirmed, is guilty of perjury and upon conviction shall be punished as provided by law. [1935, ch. 88, § 36, p. 154; am. and redesisg. 1988, ch. 265, § 66, p. 549.]

STATUTORY NOTES

Cross References. — Perjury defined, § 18-5401. amended and redesignated by § 66 of S.L. 1988, ch. 265 to become this section.

Punishment for perjury, § 18-5409.

Compiler's Notes. — This section was formerly compiled as § 49-336 and was redesignated as § 49-327 by § 61 of S.L. 1988, ch. 265.

49-333. Prohibitions. — No person shall:

(1) Cause or knowingly permit his child or ward under the age of eighteen (18) years to operate a motor vehicle upon any highway when the child or ward is not authorized under or is in violation of any of the provisions of this chapter.

(2) Authorize or knowingly permit a motor vehicle owned by him or under his control to be operated upon any highway by any person who is not authorized under or is in violation of any of the provisions of this chapter.

(3) Employ as a chauffeur of a motor vehicle any person not then licensed as provided in this chapter. [1935, ch. 88, §§ 38-40, p. 154; am. and redesisg. 1988, ch. 265, § 67, p. 549.]

STATUTORY NOTES

Compiler's Notes. — Section 67 of S.L. 1988, ch. 265 amended and redesignated §§ 49-338 — 49-340 to become this section. Former § 49-333 was amended and redesignated as § 49-329 by § 63 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Liability.

If defendant was shown to have been negligent in lending car to unlicensed driver in

violation of the section, liability of vehicle owner for injury resulting from accident caused by such unlicensed driver was not

limited by former § 49-1404 (now § 49-2417). *Kinney v. Smith*, 95 Idaho 328, 508 P.2d 1234 (1973).

Lending a car to an unlicensed driver in violation of this section does not ipso facto establish liability on the part of the owner of the car for damages caused by the negligence

of the unlicensed driver, but plaintiff must further prove that the negligence of the owner in lending the car was the proximate cause of the accident in which the injury occurred. *Kinney v. Smith*, 95 Idaho 328, 508 P.2d 1234 (1973).

49-334. Renting motor vehicle to another. — (1) No person shall rent a motor vehicle to any other person unless the latter person is then licensed or, in the case of a nonresident, then licensed under the laws of the state or country of his residence, except a nonresident whose home state or country does not require that any operator be licensed.

(2) No person shall rent a motor vehicle to another until he has inspected the driver's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of the person written in his presence.

(3) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of the latter person and the date and place when and where the license was issued. This record shall be open to inspection by any peace officer or officer or employee of the department. [1935, ch. 88, § 41, p. 154; am. and redesign. 1988, ch. 265, § 68, p. 549; am. 1989, ch. 88, § 44, p. 151.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-341 and was amended and redesignated by § 68 of S.L. 1988, ch. 265 to become this section.

Former § 49-334 was amended and redesignated as § 49-330 by § 64 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-335. Disqualifications and penalties — Commercial driver's license. — (1) Any person who operates a commercial motor vehicle or who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if convicted in the form of a judgment or withheld judgment of a first violation under any state or federal law of:

(a) Operating a motor vehicle while under the influence of alcohol or a controlled substance;

(b) Operating a commercial motor vehicle while the alcohol concentration of the person's blood, breath or bodily substance is 0.04 or more;

(c) Leaving the scene of an accident involving a motor vehicle driven by the person;

(d) Using a motor vehicle in the commission of any felony.

(2) Any person who operates a commercial motor vehicle or who holds a class A, B or C driver's license is disqualified from operating a commercial motor vehicle for a period of not less than one (1) year if the person refuses to submit to or submits to and fails a test to determine the driver's alcohol,

drug or other intoxicating substances concentration while operating a motor vehicle.

(3) If any of the offenses specified in subsection (1) or (2) of this section occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three (3) years.

(4) A person is disqualified for the period of time specified in 49 CFR part 383 if found to have committed two (2) or more of any of the offenses specified in subsection (1) or (2) of this section, or any combination of those offenses, arising from two (2) or more separate incidents.

(5) A person is disqualified for the period of time specified in 49 CFR part 383 from operating a commercial motor vehicle who uses a motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession of a controlled substance with the intent to manufacture, distribute or dispense such controlled substance.

(6) A person is disqualified from operating a commercial motor vehicle for a period of not less than sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) or more serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period. A conviction for reckless driving shall be considered a serious traffic violation if committed while operating a commercial motor vehicle or a noncommercial motor vehicle, as specified in 49 CFR part 383.

(7) A person who drives, operates, or is in physical control of a commercial motor vehicle within this state while having any detectable amount of alcohol in his system or who refuses to submit to an alcohol test must be placed out of service for twenty-four (24) hours and be subject to the provisions of section 18-8002, Idaho Code.

(8) It is unlawful for a holder of a class A, B or C license to violate an out-of-service order. A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle is disqualified for not less than:

- (a) Ninety (90) days nor more than one (1) year for a first conviction;
- (b) One (1) year nor more than five (5) years for a second conviction arising from separate incidents during any ten (10) year period;
- (c) Three (3) years nor more than five (5) years for three (3) or more convictions arising from separate incidents during any ten (10) year period.

(9) A person who is convicted in the form of a judgment or withheld judgment of a violation of an out-of-service order while driving a commercial motor vehicle and while transporting hazardous materials required to be placarded under the hazardous materials transportation act, or while operating motor vehicles designed to transport sixteen (16) or more people including the driver, is disqualified for not less than:

- (a) One hundred eighty (180) days nor more than two (2) years for a first conviction;
- (b) Three (3) years nor more than five (5) years for subsequent convictions arising from separate incidents in any ten (10) year period.

(10) A person is disqualified from operating a commercial motor vehicle if convicted of a railroad grade crossing violation as specified in 49 CFR part 383 or applicable state laws while operating a commercial motor vehicle. The disqualification shall be for a period of:

- (a) Sixty (60) days for a first conviction;
- (b) One hundred twenty (120) days for a second conviction during any three (3) year period;
- (c) One (1) year for a third or subsequent conviction during any three (3) year period.

(11) A person is additionally disqualified from operating a commercial motor vehicle in accordance with 49 CFR part 383 if such person is convicted of operating a commercial motor vehicle during a time when such person's class A, B or C driving privileges were revoked, suspended or canceled or during a time when such person was disqualified from operating a commercial motor vehicle.

(12) A person is additionally disqualified from operating a commercial motor vehicle in accordance with 49 CFR part 383 if convicted of causing a fatality through the negligent operation of a commercial motor vehicle. Such negligent operation of a commercial motor vehicle may include, but is not limited to, the crimes of motor vehicle manslaughter, homicide by motor vehicle, or negligent homicide by motor vehicle.

(13) In addition to the disqualification periods in subsections (8) and (9) of this section, a driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than one thousand one hundred dollars (\$1,100) nor more than two thousand seven hundred fifty dollars (\$2,750). [I.C., § 49-335, as added by 1989, ch. 88, § 45, p. 151; am. 1990, ch. 45, § 30, p. 71; am. 1993, ch. 300, § 7, p. 1105; am. 1996, ch. 371, § 14, p. 1246; am. 1998, ch. 110, § 27, p. 375; am. 1999, ch. 81, § 15, p. 237; am. 2002, ch. 181, § 1, p. 527; am. 2005, ch. 352, § 9, p. 1085; am. 2006, ch. 164, § 8, p. 489; am. 2007, ch. 100, § 1, p. 303.]

STATUTORY NOTES

Federal References. — The hazardous materials transportation act, referred to in subsection (9), is codified as 49 USCS § 5101 et seq.

Amendments. — The 2006 amendment, by ch. 164, deleted "commercial" following "Using a" at the beginning of subsection (1)(d); inserted the first sentence in subsection (8); and added subsection (13).

The 2007 amendment, by ch. 100, in subsection (2), inserted "or submits to and fails" and "drug or other intoxicating substances."

Compiler's Notes. — Former § 49-335 was amended and redesignated as § 49-331

by § 65 of S.L. 1988, ch. 265.

Effective Dates. — Section 70 of S.L. 1989, ch. 88 provided that the act would become effective April 1, 1990.

Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-336. Nonresident commercial driver's license. — (1) The department shall issue a license in class A, B, or C or any endorsement, only to a person who is domiciled in this state; however, an applicant who is domiciled in a foreign country where the commercial motor vehicle operator

testing and licensing standards do not meet the standards in accordance with 49 CFR part 383 may obtain a nonresident driver's license from this state which meets such standards. The applicant for a nonresident driver's license shall be required to comply with all provisions of this chapter, in the same manner as an Idaho resident.

(2) The department shall add the word nonresident to the face of the commercial driver's license of the nonresident driver. [I.C., § 49-336, as added by 1989, ch. 88, § 45, p. 151; am. 1990, ch. 45, § 31, p. 71.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-336 was amended and redesignated as § 49-332 by § 66 of S.L. 1988, ch. 265.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each

applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-337. Employee and employer responsibilities. — (1) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance in any other state relating to motor vehicle traffic control, other than parking violations, shall notify the department of the conviction in the manner specified by the department within thirty (30) days of the date of conviction.

(2) Any operator of a commercial motor vehicle holding a class A, B or C driver's license issued by this state, and who is convicted of violating any state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than parking violations, shall notify his employer in writing of the conviction within thirty (30) days of the date of conviction.

(3) Each employee whose class A, B or C driver's license is suspended, revoked, denied, refused or canceled by this state or who loses the privilege to operate a commercial motor vehicle in any state for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his employer of that fact before the end of the business day following the day the employee received notice of that fact.

(4) Each person who applies for employment as an operator of a commercial motor vehicle with an employer shall provide notification to the employer, at the time of application, of his previous employment as an operator of a commercial motor vehicle. The period of previous employment of which notification must be given shall be the ten (10) year period ending on the date of application for employment.

(5) No employer shall knowingly allow, permit, require or authorize an employee to operate a commercial motor vehicle in the United States during any period:

(a) In which the employee has a driver's license suspended, revoked or canceled by a state, has lost the privilege to operate a commercial motor vehicle in a state or has been disqualified from operating a commercial motor vehicle; or

- (b) In which the employee has more than one (1) driver's license; or
- (c) In which the employee, or the motor vehicle being driven, or the motor carrier operation, is subject to an out-of-service order.

(6) An employer who is convicted of a violation of subsection (5)(c) of this section shall be subject to a civil penalty of not less than two thousand seven hundred fifty dollars (\$2,750) nor more than eleven thousand dollars (\$11,000).

(7) No employer shall knowingly allow, permit, require or authorize an employee to operate a commercial motor vehicle in the United States in violation of any federal, state or local law or federal regulation pertaining to railroad grade crossings. An employer who is convicted of a violation of this subsection (7) shall, in addition to the general penalties provided for in this title, be subject to a civil penalty of not more than ten thousand dollars (\$10,000).

(8) Each employer shall require the information specified in subsection (4) of this section to be provided by the employee. [I.C., § 49-337, as added by 1989, ch. 88, § 45, p. 151; am. 1996, ch. 371, § 15, p. 1246; am. 1999, ch. 81, § 16, p. 237; am. 2002, ch. 181, § 2, p. 527; am. 2006, ch. 164, § 9, p. 489.]

STATUTORY NOTES

Prior Laws. — Former § 49-337, which comprised I.C., § 49-337, as added by 1983 (Ex. Sess.), ch. 3, § 7, p. 8, was repealed by S.L. 1984, ch. 22, § 1, effective March 1, 1984.

Amendments. — The 2006 amendment, by ch. 164, added present subsection (6) and redesignated former subsections (6) and (7) as

(7) and (8), and substituted "subsection (7)" for "subsection (6)" in present subsection (7).

Effective Dates. — Section 70 of S.L. 1989, ch. 88, as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

49-338 — 49-341. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-338 — 49-340 were amended and redesignated as § 49-333 by § 67 of S.L. 1988, ch. 265.

Former § 49-341 was amended and redesignated as § 49-334 by § 68 of S.L. 1988, ch. 265.

49-342 — 49-345. Penalties — Interpretation — Title — Separability. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1935, ch. 88, §§ 42 — 45, p. 154; am. 1937, ch. 20, § 1, p. 31; am. 1981, ch.

223, § 21, p. 415; am. 1982, ch. 353, § 14, p. 874, were repealed by S.L. 1988, ch. 265, § 34, effective January 1, 1989.

49-346. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-346 was amended and redesignated as § 49-308 by § 42 of S.L. 1988, ch. 265.

49-347. Chauffeur defined. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1923, ch. 63, § 1, p. 70; am. 1925, ch. 177, § 1, subd. 8, p. 315; I.C.A., § 48-301, was repealed by S.L. 1987, ch. 279, § 1.

49-348. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-348 was amended and redesignated as § 49-309 by § 43 of S.L. 1988, ch. 265.

49-349. Remittance of fees. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1943, ch. 148, § 1, p. 295; am. 1951, ch. 183, § 17, p. 383; am. 1961, ch. 310, § 18, p. 576; am. 1965, ch. 240, § 4, p. 588; am. 1977, ch. 44, § 1, p. 79; am. 1982, ch. 95, § 53, p. 185; am. 1983, ch. 179, § 3, p. 487; am. 1984, ch. 195, § 26, p. 445; am. 1984, ch. 236, § 3, p. 564, was repealed by S.L. 1985, ch. 172, § 7, effective July 1, 1985.

49-350, 49-351. Duties of board — Definitions. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — These sections, which comprised 1951, ch. 183, §§ 20, 21, p. 383; am. 1974, ch. 27, § 114, p. 811; am. 1982, ch. 95, § 54, p. 185, were repealed by S.L. 1988, ch. 265, § 34, effective January 1, 1989.

49-352. Test of driver for blood alcohol. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C. § 49-352, as added by 1983 (Ex. Sess.), ch. 3, § 9, p. 8, was repealed by S.L. 1984, ch. 22, § 1, effective March 1, 1984. For present law see §§ 18-8001 — 18-8006. 1955, ch. 249, § 1, p. 554; am. 1963, ch. 362, § 3, p. 1032; am. 1974, ch. 27, § 115, p. 811; am. 1982, ch. 101, § 1, p. 148; am. 1982, ch. 95, § 55, p. 185, was repealed by S.L. 1983 (Ex. Sess.), ch. 3, § 8.

Another former § 49-352 which comprised

49-353. Results of test available to operator. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1955, ch. 249, § 2, p. 554, was repealed by S.L. 1988, ch. 265, § 34, effective January 1, 1989.

49-354. Persons authorized to withdraw blood for the purpose of determining content of alcohol or other intoxicating substances. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1955, ch. 249, § 3, p. 554; am. 1957, ch. 192, § 1, p. 381; am. 1976, ch. 92, § 1, p. 309; am. 1983 (Ex. Sess.), ch. 3, § 10, p. 8, was repealed by S.L. 1984, ch. 22, § 1, effective March 1, 1984. This section was also amended by § 10 of S.L. 1983, ch. 145, effective July 1, 1983. However, ch. 145 was repealed by § 21 of S.L. 1983 (Ex. Sess.), ch. 3, effective May 19, 1983.

49-355. Person tested selecting physician. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1955, ch. 249, § 4, p. 554, was repealed by S.L. 1983 (Ex. Sess.), ch. 3, § 11. This section was also repealed by S.L. 1983, ch. 145, § 11, effective July 1, 1983. However, ch. 145 was repealed by § 21 of S.L. 1983 (Ex. Sess.), ch. 3, effective May 19, 1983.

49-356 — 49-358. Driver rehabilitation and improvement programs. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — These sections, which comprised 1971, ch. 319, §§ 1 — 3, p. 1280; am. 1974, ch. 27, §§ 116 — 118, p. 811; am. 1980, ch. 247, § 46, p. 582; am. 1982, ch. 95, §§ 56 — 58, p. 185, were repealed by S.L. 1988, ch. 265, § 34, effective January 1, 1989.

CHAPTER 4**MOTOR VEHICLE REGISTRATION****SECTION.**

- 49-401. Registration fee in lieu of property tax.
- 49-401A. Owner to secure registration from a county assessor or the department.
- 49-401B. Application for registration — Receipt for fee — Record of applicants.
- 49-402. Annual registration. [Effective until January 1, 2009.]
- 49-402. Annual registration. [Effective January 1, 2009.]
- 49-402A. Utility trailers — Registration, fees and transfers.
- 49-402B. Optional biennial registration.

SECTION.

- 49-402C. Special license plate programs — Standardized plate color and design.
- 49-403. Disabled veteran — License plates.
- 49-403A. Purple heart recipient — License plates.
- 49-404. National guard members — Distinctive plates.
- 49-404A. Members of the armed forces reserve — Special plates.
- 49-405. Radio amateurs — Special license plates.
- 49-406. Idaho old timer — Special license plate program — Registration and standard license plates.

SECTION.

- 49-406A. Idaho classic — Special license plate program — Registration and standard license plates.
- 49-407. Year of manufacture plate.
- 49-408. Street rod.
- 49-409. Personalized license plates.
- 49-410. Special license plates and placards for persons with a disability — Parking privileges — Placards for certain temporarily disabled persons — Enforcement.
- 49-410A. [Null and void.]
- 49-411. Dealer and manufacturer plate — Fees.
- 49-412. Vehicle dealer loaner plate.
- 49-413. [Repealed.]
- 49-414. Legislative license plates — Fees.
- 49-415. Former prisoner of war license plates.
- 49-415A. Congressional medal of honor license plates.
- 49-415B. Pearl Harbor survivor special plates.
- 49-415C. National rifle association license plates.
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- 49-415E. Idaho 2009 special olympics world winter games plates.
- 49-416. Statehood centennial license plates.
- 49-416A. Historic Lewiston plates.
- 49-416B. Basque plates.
- 49-416C. Science and technology plates.
- 49-416D. Idaho state historic preservation plates.
- 49-416E. Breast cancer education and screening plates.
- 49-417. Idaho wildlife special plates.
- 49-417A. Idaho timber special plates.
- 49-417B. Idaho agriculture plates.
- 49-417C. Famous potatoes license plates.
- 49-417D. Idaho rangeland plates. [Effective January 1, 2009.]
- 49-417E. Natural resources and mining education plates. [Effective January 1, 2009.]
- 49-418. Veterans plates.
- 49-418A. Idaho college and university plates.
- 49-418B. Idaho youth plates.
- 49-418C. Firefighters license plates.
- 49-418D. Military veteran motorcycle license plate.
- 49-418E. Idaho elks rehabilitation hospital plates.
- 49-419. Idaho snowskier plates.
- 49-419A. Idaho sawtooth national recreation area plates.
- 49-419B. Idaho motorcycle safety program plates.
- 49-419C. Idaho white water rafting plates.
- 49-419D. Idaho school transportation safety awareness plates.
- 49-420. Idaho snowmobile plates.

SECTION.

- 49-420A. Idaho state capitol commission plates.
- 49-420B. Lewis and Clark commemorative plates.
- 49-420C. Peace officer memorial plates.
- 49-420D. Appaloosa license plates.
- 49-420E. Idaho corvette plates.
- 49-420G. Idaho boy scout plates.
- 49-421. Registration cards.
- 49-422. Registration fees — Manufactured homes and towed recreational vehicles.
- 49-423, 49-424. [Reserved.]
- 49-425. Lost certificate or license plate — Duplicates.
- 49-426. Exemptions from operating fees.
- 49-427. Registration card to be carried.
- 49-428. Display of plate and stickers.
- 49-429. Display of copy of application pending receipt of license plate.
- 49-430. Registration to be renewed.
- 49-431. Assignment or transfer of interest — Procedure.
- 49-432. Temporary registration for residents and nonresidents — Fees.
- 49-433. [Repealed.]
- 49-434. Operating fees.
- 49-434A. Penalties for failure to pay operating fees.
- 49-435. Proportional registration of commercial vehicles.
- 49-435A. [Repealed.]
- 49-436. [Repealed.]
- 49-437. Increase in maximum gross weight — Fees for remaining portion of year.
- 49-438. Penalty for exceeding registered gross weight or permitted maximum registered gross weight.
- 49-439. Audit guidelines.
- 49-440. [Reserved.]
- 49-441, 49-442. [Repealed.]
- 49-443. License plates to be furnished by department — Form and contents.
- 49-443A. [Repealed.]
- 49-443B. License plates for state vehicles and vehicles belonging to taxing districts.
- 49-444. Recreation vehicle registration.
- 49-445. Recreational vehicle annual license.
- 49-446. County assessor to administer and collect license fee.
- 49-447. Department to provide identification.
- 49-448. Disposition of fees.
- 49-449. Cancellation of registration upon notice of theft.
- 49-450. Additional fee for each plate issued.
- 49-450A. Plate manufacturing account.
- 49-451. [Repealed.]
- 49-452. Emergency medical services fee.
- 49-453. Motorcycle safety program fee.

SECTION.

49-454. Project choice fee.

49-455. [Reserved.]

SECTION.

49-456. Violations of registration provisions.

49-401. Registration fee in lieu of property tax. — The registration fee imposed for vehicles under the provisions of this chapter shall be in lieu of all taxes on vehicles, general or local, and vehicles properly registered and for which the required fee for any part of the previous year has been paid shall be exempt from ad valorem taxation. [1927, ch. 244, § 26, p. 374; I.C.A., § 48-128; am. 1951, ch. 119, § 12, p. 273; am. 1953, ch. 129, § 1, p. 205; am. 1984, ch. 179, § 1, p. 425; am. and redesign. 1988, ch. 265, § 70, p. 549; am. 1992, ch. 35, § 7, p. 99.]

STATUTORY NOTES

Cross References. — Motor vehicles exempt from taxation, § 63-602J.

Prior Laws. — Former § 49-401, which comprised 1927, ch. 214, § 1, p. 298; I.C.A., § 48-401; am. 1941, ch. 144, § 1, p. 282; am. 1949, ch. 213, § 1, p. 452; am. 1953, ch. 160, § 1, p. 255; am. 1955, ch. 88, § 1, p. 200; am. 1967, ch. 272, § 22, p. 745; am. 1974, ch. 27, § 119, p. 811; am. 1982, ch. 95, § 59, p. 185,

was repealed by S.L. 1988, ch. 265, § 69, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as 49-133 and was amended and redesignated by § 70 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

Cited in: *Airstream, Inc. v. CIT Fin. Servs., Inc.*, 115 Idaho 569, 768 P.2d 1302 (1988).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 55 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 156 et seq.

49-401A. Owner to secure registration from a county assessor or the department. — (1) Every owner of a motor vehicle, trailer or semi-trailer who intends to operate the vehicle upon any highway in this state shall before the same is so operated, apply to a county assessor and obtain registration for vehicles in sections 49-402(1) through (3), 49-402A, 49-402B and 49-422, Idaho Code. All others shall be obtained from the department except as provided in subsection (2) of this section. Owners of vehicles specified in section 49-426, Idaho Code, are exempt from the provisions of this section. Owners of vehicles operating on a temporary basis as provided in sections 49-431(3), 49-432 and 49-433 [repealed], Idaho Code, are exempt from the provisions of this section to the extent that the temporary permits in use are unexpired.

(2) Commercial vehicles in excess of twenty-six thousand (26,000) pounds gross weight, farm and noncommercial vehicles in excess of sixty thousand (60,000) pounds gross weight and all vehicles registered under section 49-435, Idaho Code, shall be registered by the department. All other commercial, farm and noncommercial vehicles and the vehicles in para-

graphs (a), (b), and (c) of this subsection, shall be registered by the county assessor.

(a) Motor vehicles equipped primarily to haul passengers on a commercial basis, doing strictly an intrastate business, and having gross weights of twenty-six thousand (26,000) pounds or less.

(b) Any farm vehicle or combination of vehicles where each vehicle or combination of vehicles shall not exceed a gross weight of sixty thousand (60,000) pounds.

(c) Nonresident vehicles or combination of vehicles owned by transient labor used in hauling unprocessed agricultural products for hire and not exceeding sixty thousand (60,000) pounds gross weight shall register their vehicle for the appropriate gross weight scale for the annual fee if registered on or before June 30, and for one-half (1/2) the annual fee if not registered until on or after July 1 of any year, with the assessor of the county in which the owner resides.

(3) Commercial, farm and noncommercial vehicles of any weight doing strictly an intrastate business may be registered by the county assessor by mutual agreement between the department and the county. [I.C., § 49-401A, as added by 1992, ch. 35, § 8, p. 99; am. 1996, ch. 428, § 1, p. 1455; am. 1998, ch. 392, § 6, p. 1197; am. 1999, ch. 316, § 1, p. 790.]

STATUTORY NOTES

Compiler's Notes. — Following the amendment of § 49-402 by S.L. 2000, ch. 421 § 1, the reference to "49-402(1) through (3)" in subsection (1) of this section should read "49-402(1), (2), and (4)."

Section 49-402B, referred to in subsection (1), expired on December 31, 1993. A new § 49-402B was enacted in 1999, but that reference should not be cited in subsection (1) of this section.

Following the amendment of § 49-431 by S.L. 1992, ch. 261 § 18, the reference to

"49-431(3)" in the last sentence of subsection (1) of this section should be to "49-431(4)".

Section 49-433, referred to in subsection (1), was repealed by S.L. 1998, ch. 265, § 2, effective July 1, 1998.

Effective Dates. — Section 2 of S.L. 1996, ch. 428 provided that the act shall be in full force and effect on January 1, 1997.

Section 10 of S.L. 1999, ch. 316 provided that the act shall be in full force and effect on January 1, 2000.

JUDICIAL DECISIONS

Cited in: State v. Schumacher, 136 Idaho 509, 37 P.3d 6 (Ct. App. 2001).

49-401B. Application for registration — Receipt for fee — Record of applicants. — (1) Application for the registration of a vehicle required to be registered under the provisions of section 49-401A, Idaho Code, shall be made to the assessor or the department as specified in that section, by the owner upon the appropriate form. Every application shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the type of fuel used, and the identification number. Upon registration of a new vehicle, the application shall also show the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain any other information as may be required by the department. The assessor shall

issue to the applicant a receipt for any fee paid.

(2) The assessor shall record on a form prescribed and furnished by the department, the names of all owners of vehicles residing in the county who make application for registration, together with the amounts of the fees paid by such owners.

(3) When application for registration is made by any motor carrier, the assessor or the department shall require each such applicant to execute a certification of safety compliance.

(4) Vehicles registered under the proportional registration provisions of section 49-435, Idaho Code, shall be registered by the department.

(5) Every owner of a vehicle registered by a county assessor shall give his principal residence or domicile address to the assessor so that the proper county can be entered upon the registration. Failure to do so shall be unlawful. The department shall then attribute the registration, and all fees to be apportioned to the highway distribution account, to the county of residence regardless of the county in which the registration occurred. Fees imposed under the provisions of sections 40-827 and 40-1416, Idaho Code, shall be separately identified and accounted for, and paid to the highway district for which collected. For the purposes of vehicle registration, a person is an actual and permanent resident of the county in which he has his principal residence or domicile. A principal residence or domicile shall not be a person's workplace, vacation, or part-time residence.

(6) A violation of the provisions of this section shall be an infraction. [I.C., § 49-401B, as added by 1992, ch. 35, § 9, p. 99; am. 1998, ch. 392, § 7, p. 1197; am. 1999, ch. 383, § 7, p. 1051.]

JUDICIAL DECISIONS

Cited in: State v. Schumacher, 136 Idaho 509, 37 P.3d 6 (Ct. App. 2001).

49-402. Annual registration. [Effective until January 1, 2009.] —

(1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old	\$48.00
Vehicles three (3) and four (4) years old	\$36.00
Vehicles five (5) and six (6) years old	\$36.00
Vehicles seven (7) and eight (8) years old	\$24.00
Vehicles over eight (8) years old	\$24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registra-

tion sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars (\$24.00).

(3) For all motorcycles and motor-driven cycles which comply with the federal motor vehicle safety standards, operated upon the public highways the annual fee shall be nine dollars (\$9.00).

(4) For operation of an all-terrain vehicle, utility type vehicle or motorbike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on public lands, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code.

(5) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

(7) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(8) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars (\$25.00) and an annual program fee of fifteen dollars (\$15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409,

49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars (\$25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-415E, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420G, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

[9](8) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized. [I.C., § 49-126, as added by 1984, ch. 195, § 13, p. 445; am. 1985, ch. 53, § 2, p. 103; am. 1985, ch. 240, § 1, p. 568; am. 1987, ch. 185, § 2, p. 364; am. 1987, ch. 190, § 3, p. 382; am. 1987, ch. 361, § 2, p. 794; am and redesisg. 1988, ch. 265, § 71, p. 549; am. 1989, ch. 310, § 11, p. 769; am. 1989, ch. 318, § 3, p. 826; am. 1990, ch. 391, § 2, p. 1092; am. 1991, ch. 295, § 1, p. 769; am. 1992, ch. 35, § 10, p. 99; am. 1992, ch. 186, § 1, p. 577; am. 1992, ch. 261, § 2, p. 755; am. 1993, ch. 99, § 1, p. 248; am. 1993, ch. 135, § 2, p. 330; am. 1996, ch. 343, § 3, p. 1149; am. 1997, ch. 129, § 1, p. 382; am. 1998, ch. 392, § 8, p. 97; am. 1999, ch. 315, § 1, p. 782; am. 1999, ch. 316, § 2, p. 790; am. 1999, ch. 320, § 5, p. 815; am. 1999, ch. 365, § 1, p. 963; am. 1999, ch. 374, § 1, p. 1021; am. 2000, ch. 50, § 1, p. 95; am. 2000, ch. 193, § 1, p. 476; am. 2000, ch. 200, § 1, p. 491; am. 2000, ch. 315, § 2, p. 1059; am. 2000, ch. 421, § 1, p. 1369; am. 2001, ch. 281, § 1, p. 1010; am. 2002, ch. 226, § 1, p. 651; am. 2002, ch. 254, § 1, p. 730; am. 2002, ch. 285, § 1, p. 829; am. 2003, ch. 16, § 11, p. 48; am. 2003, ch. 43, § 1, p. 164; am. 2003, ch. 45, § 2, p. 171; am. 2003, ch. 242, § 1, p. 624; am 2004, ch. 78, § 1, p. 300; am. 2004, ch. 81, § 1, p. 306; am. 2004, ch. 301, § 2, p. 841; am. 2005, ch. 70, § 1, p. 244; am. 2005, ch. 102, § 1, p. 321; am. 2005, ch. 154, § 1, p. 481; am. 2005, ch. 183, § 4, p. 558; am. 2006, ch. 41, § 1, p. 119; am. 2006, ch. 118, § 1, p. 331; am. 2006, ch. 119, § 1, p. 334; am. 2006, ch. 176, § 1, p. 541; am. 2008, ch. 193, § 1, p. 605; am. 2008, ch. 198, § 5, p. 640; am. 2008, ch. 409, § 3, p. 1129.]

STATUTORY NOTES

Amendments. — This section was amended by two 1993 acts — ch. 99, § 1, and ch. 135, § 2, both effective July 1, 1993 — which do not appear to conflict and have been compiled together.

The 1993 amendment, by ch. 99, § 1, redesignated a former subsection (9) as subsection (8); and in the first sentence of present sub-

section (7) added “49-406, 49-406A,” preceding “49-410, 49-415”.

The 1993 amendment, by ch. 135, § 2, redesignated a former subsection (9) as subsection (8); and in the first sentence of present subsection (7) added “49-404,” following “49-403, 49-403A,”.

This section was amended by five 1999 acts

— ch. 315, § 1, effective January 1, 1999, ch. 316, § 2, effective January 1, 1999, ch. 320, § 5, effective January 1, 1999, ch. 365, § 1, effective January 1, 2000, and ch. 374, § 1, effective January 1, 1999 — which are compatible but do appear to conflict. In former subsection (8), the amendment by ch. 315 added a reference to section 49-418A to the list of special license plates for which there was a \$35.00 fee, but the amendments by chapters 316, 365 and 374 all added a sentence to that same subsection stating that the special plates in section 49-418A would have a fee of \$50.00.

The 1999 amendment, by ch. 315, in subsection (8), in the third sentence, inserted “49-418A, 49-419 and 49-420” following “49-417A,” in the last sentence, substituted “as specified by law for each program” for “in the state highway account and shall be used to fund the cost of administration of special license plate programs which are provided to the public as a personal alternative to the standard license plate requirements.”

The 1999 amendment, by ch. 316, in subsection (1), deleted “designed for the purpose of carrying passengers and not used for hire,” deleted subsection (2), which formerly read: “For all motor vehicles equipped to carry passengers and operated primarily for hire exclusively within the limits of an incorporated city and adjacent thereto, when the service outside the city is a part of a regular service rendered inside the city, and for school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twelve dollars and forty-eight cents (\$12.48);” deleted subsection (3), which formerly read: “For all hearses, ambulances and wreckers the annual fee shall be twenty-nine dollars and forty cents (\$29.40), and these vehicles shall bear passenger car plates. No operator of a hearse, ambulance, or wrecker shall be entitled to operate them by virtue of any dealer’s license that may have been issued under the provisions of this chapter,” redesignated former subsections (4) through (8) as subsections (3) through (6); in subsection (6), inserted “49-419 and 49-420” following “49-417A,” added a fourth sentence, and in the last sentence, substituted “as specified by law for each program” for “in the state highway account and shall be used to fund the cost of administration of special license plate programs which are provided to the public as a personal alternative to the standard license plate requirements.”

The 1999 amendment, by ch. 320, deleted former subdivision (1)(a) which read: “An amount equivalent to the net increase in the

motor fuels tax exceeding twenty-one cents (21¢) per gallon shall be deposited to the restricted highway fund, and the remainder shall be distributed,” redesignated subdivisions (1)(a) through (1)(d) as subdivisions (1)(a) through (1)(c), in subdivision (1)(a), substituted “Thirty-eight percent (38%)” for “Thirty-five and seventy-seven hundredths percent (35.77%),” in subdivision (1)(b), substituted “Fifty seven percent (57%)” for “Fifty-eight and eighty-three hundredths percent (58.83%),” in subdivision (1)(c), substituted “Five percent (5%)” for “Five and forty hundredths percent (5.40).”

The 1999 amendment, by ch. 365, in subsection (8), in the third sentence, inserted “49-419, 49-419A and 49-420” following “49-417A,” added a fourth sentence, and in the last sentence, substituted “as specified by law for each program” for “in the state highway account and shall be used to fund the cost of administration of special license plate programs which are provided to the public as a personal alternative to the standard license plate requirements.”

The 1999 amendment, by ch. 374, in subsection (8), in the third sentence inserted “49-417B, 49-419 and 49-420” following “49-417A,” added a fourth sentence, and in the last sentence substituted “as specified by law for each program” for “in the state highway account and shall be used to fund the cost of administration of special license plate programs which are provided to the public as a personal alternative to the standard license plate requirement.”

This section was amended by five 2000 acts — ch. 315, § 2 and ch. 421, § 1, both effective January 1, 2000; and ch. 50 § 1, ch. 193, § 1, and ch. 200, § 1, all effective January 1, 2001 — which do not conflict and have been compiled together in this version of the section.

The 2000 amendment, by ch. 315, § 2, effective January 1, 2000, in subsection (2), inserted “operated upon the public highways” preceding “the annual fee shall be nine dollars,” inserted “and (3)” following “49-426(2),” substituted “the purposes described in subsections (2) and (3) of section 49-426, Idaho Code” for “purposes described in that subsection (2)” and deleted the former fourth sentence which read: “For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00).”

The 2000 amendment, by ch. 421, § 1, effective January 1, 2000, renumbered former subsections (2) through (6) as subsections (3) through (7); added subsection (2); and in subsection (7), deleted the former fourth sentence which read: “For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00).”

The 2000 amendment, by ch. 50, § 1, effective January 1, 2001, in subsection (6), in the third sentence inserted "49-418B, 49-418C" following "49-418A", deleted the former fourth sentence which read: "For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00)", and substituted "in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law" for "as specified by law for each program".

The 2000 amendment, by ch. 193, § 1, effective January 1, 2001, in subsection (6), in the third sentence inserted "49-417C" following "49-417B", deleted the former fourth sentence which read: "For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00)", and substituted "in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law" for "as specified by law for each program".

The 2000 amendment, by ch. 200, § 1, effective January 1, 2001, in subsection (6), in the third sentence inserted "and 49-420B" following "49-420", deleted the former fourth sentence which read: "For special plates issued pursuant to section 49-418A, Idaho Code, the initial program fee and the annual renewal fee shall be fifty dollars (\$50.00)", and substituted "in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law" for "as specified by law for each program".

This section was amended by three 2002 acts, ch. 226, § 1, ch. 254, § 1 and ch. 285, § 1, each effective January 1, 2003.

The 2002 amendments, by chs. 226, § 1, 254, § 1 and 285, § 1, in subsection (7), inserted "and 49-420C" following "49-420B."

This section was amended by four 2003 acts: ch. 16, §11, effective February 12, 2003; and effective January 1, 2004, by ch. 43, §1, ch. 45, § 2, and ch. 242, § 1, which do not conflict and have been compiled together.

The 2003 amendment, by ch. 16, inserted "49-420D and 49-420E" in subsection (7).

The 2003 amendment, by ch. 43, made the same change as the first 2003 amendment but also inserted "49-419B" in subsection (7).

The 2003 amendment, by ch. 45, made the same change as the first 2003 amendment but also inserted "and 49-420G" in subsection (7).

The 2003 amendment, by ch. 242, made the same change as the first 2003 amendment but also inserted "49-419C" in subsection (7).

This section was amended by three 2004 acts that are compatible and have been compiled together.

The 2004 amendment, by ch. 78, § 1, in subsection (7), inserted "and 49-418D" near the beginning of the first sentence.

The 2004 amendment, by ch. 81, § 1, in subsection (7), inserted "49-416A".

The 2004 amendment, by ch. 301, § 1, in subsection (7), inserted "49-419D".

The section was amended by two 2005 acts, effective July 1, 2004, which appear to be compatible and have been compiled together.

The 2005 amendment, by ch. 70, § 1, added "and (4)" in two places in subsection (3).

The 2005 amendment, by ch. 183, § 4, added "each neighborhood electric vehicle" in the introductory paragraph of subsection (i).

This section was amended by two 2005 acts, effective January 1, 2006, which appear to be compatible and have been compiled together. Additionally, the amendments by S.L. 2005, ch. 70, § 1 and ch. 183, § 4 have been incorporated into this version, effective January 1, 2006.

The 2005 amendment, by ch. 102, § 1, added "49-416C" in subsection (7).

The 2005 amendment, by ch. 154, § 1, added "49-416B" in subsection (7).

This section was amended by four 2006 acts which appear to be compatible and have been compiled together.

The 2006 amendment, by ch. 41, inserted "49-415C" in the third sentence of subsection (7).

The 2006 amendment, by ch. 118, inserted "49-418E" in the third sentence in subsection (7).

The 2006 amendment, by ch. 119, inserted "49-416D" in the third sentence in subsection (7).

The 2006 amendment, by ch. 176, inserted "49-416E," in the third sentence in subsection (7).

The 2007 amendment, by ch. 256, inserted "49-415D" in the third sentence in subsection (7).

This section was amended by three 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 193, inserted "49-415E" in the third sentence in subsection (8).

The 2008 amendment, by ch. 198, in the first sentence in subsection (1), inserted "and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code"; in subsection (3), inserted "and motor-driven cycles which comply with the federal motor vehicle safety standards"; and added subsection [(9)](8).

The 2008 amendment, by ch. 409, designated the last two sentences in subsection (3) as subsection (4) and redesignated the subsequent subsections accordingly; and rewrote subsection (4), which formerly read; "For operation of an all-terrain vehicle or motorcycle

off the public highways the fee specified in section 67-7122, Idaho Code, shall be paid. The registration exemptions provided in section 49-426(2), (3) and (4) of section 49-426, Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code."

Compiler's Notes. — Former § 49-402 was amended and redesignated as § 49-501 by § 116 of S.L. 1988, ch. 265.

Effective Dates. — Section 3 of S.L. 2000, ch. 50 provides this act shall be in full force and effect on and after January 1, 2001.

Section 3 of S.L. 2000, ch. 193 provides this act shall be in full force and effect on and after January 1, 2001.

Section 6 of S.L. 2000, ch. 200 provides that Section 1 of this act shall be in full force and effect on and after January 1, 2001.

Section 2 of S.L. 2000, ch. 421 declared an emergency retroactively to January 1, 2000 and approved April 17, 2000.

Section 3 of S.L. 2002, ch. 226 provided that the act should take effect on and after January 1, 2003.

Section 3 of S.L. 2002, ch. 254 provided that the act should take effect on and after January 1, 2003.

Section 4 of S.L. 2002, ch. 285 provided that section 2 of this act shall be in full force and effect on and after July 1, 2002; and sections 1 and 3 of this act shall be in full force and effect on and after January 1, 2003.

Section 18 of S.L. 2003, ch. 16 declared an emergency. Approved February 12, 2003.

Section 3 of S.L. 2003, ch. 43 provided that

the act should take effect on and after January 1, 2004.

Section 3 of S.L. 2003, ch. 45 provided that the act should take effect on and after January 1, 2004.

Section 3 of S.L. 2003, ch. 242 provided that the act should take effect on and after January 1, 2004.

Section 3 of S.L. 2004, ch. 78 provided that the act should take effect on and after January 1, 2005.

Section 3 of S.L. 2004, ch. 81 provided that the act should take effect on and after January 1, 2005.

Section 5 of S.L. 2004, ch. 301 provided that the act should take effect on and after January 1, 2005.

Section 4 of S.L. 2005, ch. 102 provided that the act should take effect on after after January 1, 2006.

Section 3 of S.L. 2005, ch. 154 provided that the act should take effect on and after January 1, 2006.

Section 3 of S.L. 2006, ch. 41 provided that the act should take effect on and after January 1, 2007.

Section 3 of S.L. 2006, ch. 118 provided that the act should take effect January 1, 2007.

Section 4 of S.L. 2006, ch. 119 provided that the act should take effect January 1, 2007.

Section 3 of S.L. 2006, ch. 176 provided that the act should take effect on and after January 1, 2007.

Section 3 of S.L. 2007, ch. 256 provided that the act should take effect on and after January 1, 2008.

Section 3 of S.L. 2008, ch. 193 declared an emergency. Approved March 18, 2008.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

ANALYSIS

Police power.

Validity of tax.

Police Power.

Driver's license and vehicle registration requirements constitute a legitimate exercise of the state's police power. Licensing drivers is a means of determining that vehicle operators have acquired a minimal standard of competence. Requiring driver competence is a public purpose within the police power of the state, and the licensing procedure is a reasonable attempt to accomplish that purpose. The vehicle registration requirement also reasonably furthers protection of public health, safety and welfare and, as such, is a proper

exercise of the state's police power. *Gordon v. State*, 108 Idaho 178, 697 P.2d 1192 (Ct. App.), appeal dismissed, 474 U.S. 803, 106 S. Ct. 35, 88 L. Ed. 2d 29 (1985).

Validity of Tax.

The tax imposed by this section is not prohibited by the state constitution; it is a measure for raising revenue to compensate for the damage done to the highways of the state. In *re Kessler*, 26 Idaho 764, 146 P. 113 (1915).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 57 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 156 et seq.

A.L.R. — State regulation of motor vehicle rental (“YOU-DRIVE”) business. 60 A.L.R.4th 784.

49-402. Annual registration. [Effective January 1, 2009.] —

(1) The annual fee for operating each pickup truck, each neighborhood electric vehicle and each other motor vehicle having a maximum gross weight not in excess of eight thousand (8,000) pounds and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code, shall be:

Vehicles one (1) and two (2) years old	\$48.00
Vehicles three (3) and four (4) years old	\$36.00
Vehicles five (5) and six (6) years old	\$36.00
Vehicles seven (7) and eight (8) years old	\$24.00
Vehicles over eight (8) years old	\$24.00

There shall be twelve (12) registration periods, starting in January for holders of validation registration stickers numbered 1, and proceeding consecutively through December for holders of validation registration stickers numbered 12, each of which shall start on the first day of a calendar month and end on the last day of the twelfth month from the first day of the beginning month. Registration periods shall expire midnight on the last day of the registration period in the year designated by the validation registration sticker. The numeral digit on the validation registration stickers shall, as does the registration card, fix the registration period under the staggered plate system of Idaho for the purpose of reregistration and notice of expiration.

A vehicle that has once been registered for any of the above designated periods shall, upon reregistration, be registered for the period bearing the same number, and the registration card shall show and be the exclusive proof of the expiration date of registration and licensing. Vehicles may be initially registered for less than a twelve (12) month period, or for more than a twelve (12) month period, and the fee prorated on a monthly basis if the fractional registration tends to fulfill the purpose of the monthly series registration system.

(2) For all school buses operated either by a nonprofit, nonpublic school or operated pursuant to a service contract with a school district for transporting children to or from school or in connection with school approved activities, the annual fee shall be twenty-four dollars (\$24.00).

(3) For all motorcycles and motor-driven cycles which comply with the federal motor vehicle safety standards, operated upon the public highways the annual fee shall be nine dollars (\$9.00).

(4) For operation of an all-terrain vehicle, utility type vehicle or motor-bike, excluding a motorbike with an engine displacement of fifty (50) cubic centimeters or less, on public lands, a restricted vehicle license plate fee pursuant to section 49-450, Idaho Code, shall be paid. In addition, the registration fee specified in section 67-7122, Idaho Code, shall be paid as

provided in section 67-7122, Idaho Code. The registration and restricted vehicle license plate exemption provided in section 49-426(2), Idaho Code, applies to all-terrain vehicles, utility type vehicles, motorbikes and motorcycles used for the purposes described in subsection (2) of section 49-426, Idaho Code.

(5) For all motor homes the fee shall be as specified in subsection (1) of this section and shall be in addition to the fees provided for in section 49-445, Idaho Code.

(6) Registration fees shall not be subject to refund.

(7) A financial institution or repossession service contracted to a financial institution repossessing vehicles under the terms of a security agreement shall move the vehicle from the place of repossession to the financial institution's place of business on a repossession plate. The repossession plate shall also be used for demonstrating the vehicle to a prospective purchaser for a period not to exceed ninety-six (96) hours. The registration fees for repossession plates shall be as required in subsection (1) of this section for a vehicle one (1) and two (2) years old. All other fees required under chapter 4, title 49, Idaho Code, shall be in addition to the registration fee. The repossession plate shall be issued on an annual basis by the department.

(8) In addition to the annual registration fee in this section, there shall be an initial program fee of twenty-five dollars (\$25.00) and an annual program fee of fifteen dollars (\$15.00) for all special license plate programs for those license plates issued pursuant to sections 49-404A, 49-407, 49-408, 49-409, 49-414, 49-416, 49-418 and 49-418D, Idaho Code. For special plates issued pursuant to sections 49-406 and 49-406A, Idaho Code, there shall be an initial program fee of twenty-five dollars (\$25.00) but there shall be no annual renewal fee. For special plates issued pursuant to sections 49-415C, 49-415D, 49-415E, 49-416A, 49-416B, 49-416C, 49-416D, 49-416E, 49-417, 49-417A, 49-417B, 49-417C, 49-417D, 49-417E, 49-418A, 49-418B, 49-418C, 49-418E, 49-419, 49-419A, 49-419B, 49-419C, 49-419D, 49-420, 49-420A, 49-420B, 49-420C, 49-420D, 49-420E and 49-420G, Idaho Code, there shall be an initial program fee of thirty-five dollars (\$35.00) and an annual program fee of twenty-five dollars (\$25.00). The fees contained in this subsection shall be applicable to all new special plate programs. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of special license plate programs, unless otherwise specified by law.

[(9)](8) Any vehicle that does not meet federal motor vehicle safety standards shall not be registered and shall not be permitted to operate on public highways of the state, as defined in section 40-117, Idaho Code, unless otherwise specifically authorized. [I.C., § 49-126, as added by 1984, ch. 195, § 13, p. 445; am. 1985, ch. 53, § 2, p. 103; am. 1985, ch. 240, § 1, p. 568; am. 1987, ch. 185, § 2, p. 364; am. 1987, ch. 190, § 3, p. 382; am. 1987, ch. 361, § 2, p. 794; am and redesisg. 1988, ch. 265, § 71, p. 549; am. 1989, ch. 310, § 11, p. 769; am. 1989, ch. 318, § 3, p. 826; am. 1990, ch. 391, § 2, p. 1092; am. 1991, ch. 295, § 1, p. 769; am. 1992, ch. 35, § 10, p. 99; am. 1992, ch. 186, § 1, p. 577; am. 1992, ch. 261, § 2, p. 755; am. 1993, ch. 99,

§ 1, p. 248; am. 1993, ch. 135, § 2, p. 330; am. 1996, ch. 343, § 3, p. 1149; am. 1997, ch. 129, § 1, p. 382; am. 1998, ch. 392, § 8, p. 97; am. 1999, ch. 315, § 1, p. 782; am. 1999, ch. 316, § 2, p. 790; am. 1999, ch. 320, § 5, p. 815; am. 1999, ch. 365, § 1, p. 963; am. 1999, ch. 374, § 1, p. 1021; am. 2000, ch. 50, § 1, p. 95; am. 2000, ch. 193, § 1, p. 476; am. 2000, ch. 200, § 1, p. 491; am. 2000, ch. 315, § 2, p. 1059; am. 2000, ch. 421, § 1, p. 1369; am. 2001, ch. 281, § 1, p. 1010; am. 2002, ch. 226, § 1, p. 651; am. 2002, ch. 254, § 1, p. 730; am. 2002, ch. 285, § 1, p. 829; am. 2003, ch. 16, § 11, p. 48; am. 2003, ch. 43, § 1, p. 164; am. 2003, ch. 45, § 2, p. 171; am. 2003, ch. 242, § 1, p. 624; am. 2004, ch. 78, § 1, p. 300; am. 2004, ch. 81, § 1, p. 306; am. 2004, ch. 301, § 2, p. 841; am. 2005, ch. 70, § 1, p. 244; am. 2005, ch. 102, § 1, p. 321; am. 2005, ch. 154, § 1, p. 481; am. 2005, ch. 183, § 4, p. 558; am. 2006, ch. 41, § 1, p. 119; am. 2006, ch. 118, § 1, p. 331; am. 2006, ch. 119, § 1, p. 334; am. 2006, ch. 176, § 1, p. 541; am. 2007, ch. 256, § 1, p. 760; am. 2008, ch. 150, § 1, p. 436; am. 2008, ch. 193, § 1, p. 605; am. 2008, ch. 198, § 5, p. 640; am. 2008, ch. 210, § 1, p. 664; am. 2008, ch. 409, § 3, p. 1129.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — The 2007 amendment, by ch. 256, inserted “49-415D” in the third sentence in subsection (7).

This section was amended by five 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 150, effective January 1, 2009, inserted “49-417D” in the third sentence in subsection (8).

The 2008 amendment, by ch. 193, inserted “49-415E” in the third sentence in subsection (8).

The 2008 amendment, by ch. 198, in the first sentence in subsection (1), inserted “and that complies with the federal motor vehicle safety standards as defined in section 49-107, Idaho Code”; in subsection (3), inserted “and motor-driven cycles which comply with the federal motor vehicle safety standards”; and added subsection [(9)](8).

The 2008 amendment, by ch. 210, effective January 1, 2009, inserted “49-417E” in subsection (8).

The 2008 amendment, by ch. 409, desig-

nated the last two sentences in subsection (3) as subsection (4) and redesignated the subsequent subsections accordingly; and rewrote subsection (4), which formerly read; “For operation of an all-terrain vehicle or motorcycle off the public highways the fee specified in section 67-7122, Idaho Code, shall be paid. The registration exemptions provided in section 49-426(2), (3) and (4) of section 49-426, Idaho Code, apply to all-terrain vehicles and motorcycles used for the purposes described in subsections (2), (3) and (4) of section 49-426, Idaho Code.”

Compiler's Notes. — For this section as effective until January 1, 2009, see the preceding section, also numbered § 49-402.

Effective Dates. — Section 3 of S.L. 2007, ch. 256 provided that the act should take effect on and after January 1, 2008.

Section 3 of S.L. 2008, ch. 150 provided that the act should take effect on and after January 1, 2009.

Section 3 of S.L. 2008, ch. 193 declared an emergency. Approved March 18, 2008.

Section 3 of S.L. 2008, ch. 210 provided that the act should take effect on and after January 1, 2009.

49-402A. Utility trailers — Registration, fees and transfers. —

(1) The department shall register a utility trailer for a period of one (1) year for a fee of five dollars (\$5.00).

(2) The department may register a utility trailer for a five (5) year period or for a ten (10) year period, and shall issue a license plate with the year of expiration designated by a validation sticker. Five (5) year registrations shall cost twenty dollars (\$20.00) and ten (10) year registrations shall cost thirty dollars (\$30.00).

(3) If ownership or interest in the trailer transfers as a result of a sale, neither the registration card nor plate can be transferred to another person. The registration card and plate shall remain in the possession of the transferor and may be transferred to another utility trailer owned by the transferor, and shall be valid until expiration of the original registration. [I.C., § 49-402A, as added by 1989, ch. 318, § 4, p. 817; am. 1990, ch. 197, § 1, p. 439.]

STATUTORY NOTES

Effective Dates. — Section 8 of S.L. 1989, ch. 318 provided that the act would become effective January 1, 1990.

49-402B. Optional biennial registration. — (1) At the option of the applicant, any vehicle registered under the provisions of section 49-402(1) through (5), Idaho Code, may be registered for a period of two (2) years for a fee that is double the fee currently assessed for annual registration of the vehicle in section 49-402, Idaho Code.

(2) If any vehicle registered under a special license plate program is registered for a two (2) year period as provided in this section, the registrant shall also be required to pay the special programs fees for a two (2) year period.

(3) The additional fee collected for emergency medical services pursuant to section 49-452, Idaho Code, or project choice pursuant to section 49-454, Idaho Code, shall also be doubled for any registration issued under the provisions of this section.

(4) The administrative fee collected for issuance of a motor vehicle registration shall be the same as for an annual registration and shall not be doubled or in any way increased solely because of registration under the provisions of this section. [I.C., § 49-402B, as added by 1999, ch. 90, § 2, p. 291; am. 2006, ch. 227, § 2, p. 679.]

STATUTORY NOTES

Prior Laws. — Former § 49-402B compiled as I.C., § 49-402B, as added by 1991, ch. 161, § 1, p. 388 expired on “December 31 of the second year following declaration of the end of hostilities in the Persian Gulf” pursuant to § 3 of the act. Since such hostilities ended on February 27, 1991, the former § 49-402B expired on December 31, 1993.

Amendments. — The 2006 amendment, by ch. 227, inserted “or project choice pursuant to section 49-454, Idaho Code” in subsection (3).

Compiler's Notes. — The reference in subsection (1) to “section 49-402(1) through (5)” was added by S.L. 1999, ch. 90, § 2. Since the enactment of this section, subsections (2) and (3) of § 49-402 were deleted by S.L. 1999, ch. 316, § 2 and a new subsection (2) was added to § 49-402 by S.L. 2000, ch. 421, § 1. The reference in this section should now be to section 49-402.

Effective Dates. — Section 3 of S.L. 2006, ch. 227 provided that the act should take effect on and after January 1, 2007.

49-402C. Special license plate programs — Standardized plate color and design. — (1) It is the intent of the legislature that special license plates issued by the department be readily recognizable as plates from the state of Idaho without losing the uniqueness for which the special

plate was designed and purchased. In addition, the legislature finds that the department can operate in a more efficient, cost-effective manner by conforming special plates to a basic color and design.

(2) No special license plates and no special license plate programs in existence on or before June 30, 1998, shall be affected by the provisions of this section. On and after July 1, 1998, any new special license plate program authorized or any redesign of an existing special license plate, shall use the same red, white and blue background as the standard issue of license plates described in section 49-443, Idaho Code, except that:

- (a) The identification of county shall be omitted;
- (b) The word "Idaho" shall appear on every plate;
- (c) The inscription "Scenic Idaho" may be omitted without legislative consideration and approval; and
- (d) No slogan shall be used that infringes upon, dilutes or compromises, or could be perceived to infringe upon, dilute or compromise, the trademarks of the state of Idaho, including, but not limited to, "Idaho Potatoes[®]," "Grown in Idaho[™]," "Famous Idaho Potatoes[™]" or "Famous Potatoes[®]."

The provisions of this section shall not apply to the plate designs issued pursuant to the provisions of section 49-417, Idaho Code.

(3) Any redesign required for a special plate to conform with legislative intent and the provisions of this section may be done in a manner similar to that used to produce the original design.

(4) The special plates shall conform in all other respects with the provisions of section 49-443, Idaho Code, relating to visibility requirements, display of registration number, time period for validity of plates, and reservation of plate numbers.

(5) Unless otherwise specifically provided, no special license plates shall be issued to motor vehicles with a registered maximum gross weight in excess of twenty-six thousand (26,000) pounds, or any motor vehicle registered under section 49-434(5), Idaho Code, or section 49-435, Idaho Code.

(6) Following an introductory period of three (3) years during which the provisions of this subsection shall not apply, if, during both years of any following two (2) consecutive years, fewer than one thousand (1,000) plates are issued in each of those two (2) consecutive years, the department shall discontinue that special license plate program and no new plates shall be issued nor shall any existing plate be renewed upon its expiration. The provisions of this subsection shall apply to sections 49-416, 49-417, 49-417A, 49-417B, 49-417C, 49-418A, 49-418B, 49-418C, 49-419, 49-419A, 49-420, 49-420B, Idaho Code, and any other special license plate programs created on and after July 1, 2002. [I.C., § 49-402C, as added by 1998, ch. 405, § 1, p. 1261; am. 1999, ch. 385, § 1, p. 1074; am. 2000, ch. 87, § 2, p. 188; am. 2002, ch. 285, § 2, p. 829; am. 2002, ch. 362, § 2, p. 1021; am. 2004, ch. 301, § 3, p. 841.]

STATUTORY NOTES

Effective Dates. — Section 4 of S.L. 2002, ch. 285 read: "Section 2 of this act shall be in full force and effect on and after July 1, 2002; and Sections 1 and 3 of this act shall be in full force and effect on and after January 1, 2003."

Section 3 of S.L. 2002, ch. 362 provided that

the act should take effect on and after January 1, 2003.

Section 5 of S.L. 2004, ch. 301 provided that the act should take effect on and after January 1, 2005.

49-403. Disabled veteran — License plates. — No fee shall be charged for the registration or reregistration of a motor vehicle owned by a veteran who has established his rights to benefits under the provisions of Public Law 662, 79th Congress, as amended, and Public Law 187, 82nd Congress, as amended. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds, nor to any vehicle registered under section 49-434(5), Idaho Code. No fee shall be charged for the registration or reregistration of a motor vehicle owned by a veteran, who is at the time of the registration or reregistration receiving compensation from the veterans administration or in lieu thereof, from any of the armed forces of the United States, for one hundred percent (100%) service-connected disability or for any of the following specific disabilities: Loss or permanent loss of use of one (1) or both feet; loss or permanent loss of use of one (1) or both hands; loss of sight in both eyes or permanent impairment of vision in both eyes to the degree as to constitute virtual blindness. These provisions shall be considered applicable not only as to the vehicle originally purchased under this authorization, but also as to any vehicle subsequently purchased and owned by the same veteran, so long as the privilege shall not extend to more than one (1) vehicle at a time. Special license plates shall be issued for such a vehicle, identified by the inscription "D.V.", and a separate number series shall be used to further identify the license plates so issued. These license plates shall not be issued by the counties but shall be issued by the department. The plates shall be displayed in accordance with the procedure applicable to license plates set forth in section 49-428, Idaho Code. A vehicle displaying plates issued in accordance with the provisions of this section shall be afforded the same privileges specified in section 49-410(7), Idaho Code. [I.C., § 49-403, as added by 1988, ch. 265, § 72, p. 549; am. 1992, ch. 35, § 11, p. 99; am. 1992, ch. 261, § 3, p. 755; am. 1999, ch. 309, § 1, p. 767; am. 2000, ch. 87, § 3, p. 188.]

STATUTORY NOTES

Amendments. — This section was amended by two 1992 acts — ch. 35, § 11, effective July 1, 1992 and ch. 261, § 2, effective January 1, 1993 — which do not appear to conflict and have been compiled together.

The 1992 amendment, by ch. 35, § 11, in the fifth sentence deleted "through and at the request of the appropriate county assessor" following "department."

The 1992 amendment, by ch. 261, § 2, in

the last sentence updated the statutory reference.

Federal References. — Public Law 662, 79th Congress, and Public Law 187, 82nd Congress, referred to in this section, were compiled in 38 U.S.C. which title was subsequently revised.

Compiler's Notes. — Former § 49-403 was amended and redesignated as § 49-502 by § 117 of S.L. 1988, ch. 265.

49-403A. Purple heart recipient — License plates. — (1) Purple heart recipient license plates are available to any applicant who is a veteran or an active or retired member of any of the armed forces of the United States, reserve forces or Idaho national guard, and who furnishes proof of entitlement by providing one (1) of the following documents:

- (a) A copy of form DD214 or equivalent document showing an award of the purple heart medal;
- (b) A copy of the certificate presented with the medal; or
- (c) A copy of the military order describing the award of the medal to the applicant.

(2) In addition to the regular registration fee, the applicant shall be charged the plate fee required in section 49-450, Idaho Code. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department. A purple heart recipient shall not register more than two (2) vehicles under the provisions of this section. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds, nor to any vehicle registered under section 49-434(5), Idaho Code.

(3) Purple heart recipient license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased purple heart recipient. In addition, the surviving spouse of a deceased purple heart recipient is eligible to reapply for and shall be issued purple heart recipient license plates if the deceased purple heart recipient died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse.

(4) The purple heart recipient license plates shall be of a color and design acceptable to the military order of the purple heart association and approved by the department, utilizing a numbering system as determined by the department. [I.C., § 49-403A, as added by 1991, ch. 20, § 1, p. 42; am. 1992, ch. 26, § 1, p. 81; am. 1992, ch. 261, § 4, p. 755; am. 1998, ch. 329, § 1, p. 1061; am. 2000, ch. 37, § 1, p. 66; am. 2000, ch. 87, § 4, p. 188.]

STATUTORY NOTES

Amendments. — This section was amended by two 1992 acts — ch. 26, § 1 and ch. 261, § 4, both effective January 1, 1993. Both acts amended subsection (2) of the section and appeared to conflict and could not be compiled together. The amendments by ch. 261, as the latest expression of the legislature, were given effect.

Subsection (2) as amended by S.L. 1992, ch. 26, § 1 would have read: "(2) In addition to the regular operating fee, the applicant shall be charged the plate fee as provided in section 49-450, Idaho Code, except that the entire fee shall be deposited in the state highway account and shall be used to fund the cost of

administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement. Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the registration shall expire, but the purple heart recipient may transfer his plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department. A purple heart recipient shall not register more than two (2) vehicles under the provisions of this section."

The 1992 amendment, by ch. 261, § 4, in

the present first sentence of subsection (2) substituted "registration" for "operating" preceding "In addition to the regular" at the beginning of the sentence and substituted "the plate fee required in section 49-450, Idaho Code" for "a fee of twenty-five dollars (\$25.00) for the initial issuance of plates, and fifteen dollars (\$15.00) upon each succeeding annual registration. The initial fee and the annual fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement", thereby combining the former first and second sentences and the present second sentence.

This section was amended by two 2000 acts — ch. 37, § 1, effective March 9, 2000 and ch. 87, § 1, effective July 1, 2000 — which do not conflict and have been compiled together.

The 2000 amendment, by ch. 37, § 1, added the last two sentences.

The 2000 amendment, by ch. 87, § 4, in subsection (2), added the last sentence.

Compiler's Notes. — The military order of the purple heart association, referred to in subsection (4), was formed in 1932 for the protection and mutual interest of all who received the decoration. See <http://www.purpleheart.org/membership/default.aspx>.

Effective Dates. — Section 2 of S.L. 1991, ch. 20 provided that the act should be in full force and effect on and after January 1, 1992.

Section 22 of S.L. 1992, ch. 261 read: "(1) This act shall be in full force and effect on and after January 1, 1993.

"(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department."

Section 2 of S.L. 1998, ch. 329 declared an emergency. Approved March 24, 1998.

Section 6 of S.L. 2000, ch. 37 declared an emergency. Approved March 9, 2000.

49-404. National guard members — Distinctive plates. — (1) In order to enhance visibility and identification of national guard members during mobilizations and emergencies, any active member of the Idaho national guard residing in the state of Idaho may, upon application to the department, register not more than two (2) motor vehicles and receive for each vehicle distinctive national guard license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. The national guard license plates shall be designed, subject to the approval of the department, by the adjutant general. Proof of being an active member in the Idaho national guard must be furnished to the department before plates will be issued.

The Idaho national guard shall, prior to an individual's discharge from active duty in the national guard, require that the national guard license plates either be turned in to the department or exchanged for other proper license plates as a condition of discharge.

(2) Whenever a member of the Idaho national guard transfers or assigns his title or interest to a vehicle especially registered under the provisions of this section, the registration shall expire but the member may hold his national guard license plates which he may have reissued to him upon the payment of the required transfer fees. He may only display the plates after receipt of new registration from the department.

(3) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the national guard member shall pay the plate fee specified in section 49-450, Idaho Code. [1963, ch. 61, §§ 1-3, p. 242; am. 1972, ch. 158, § 1, p. 351; am. 1974, ch. 27, §§ 103-105, p. 811; am. 1976, ch. 46, § 1, p. 145; am. 1982, ch. 95, §§ 32-34, p. 185; am. and redesign. 1988, ch. 265, § 73, p. 549; am. 1992, ch. 261, § 5, p. 755; am. 1993, ch. 135, § 3, p. 330; am. 1998, ch. 113, § 1, p. 418; am. 2000, ch. 87, § 5, p. 188.]

STATUTORY NOTES

Cross References. — Adjutant general of national guard, § 43-111.

Compiler's Notes. — Section 73 of S.L. 1988, ch. 265 amended and redesignated §§ 49-228 — 49-230 to become this section.

Former § 49-404 was amended and redesignated as § 49-503 by § 118 of S.L. 1988, ch. 265.

Effective Dates. — Section 22 of S.L. 1992, ch. 261 read: "(1) This act shall be in full

force and effect on and after January 1, 1993.

"(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department."

49-404A. Members of the armed forces reserve — Special plates.

— (1) Any active member of the armed forces reserves of the United States who is the owner of a vehicle registered under section 49-402(1) or section 49-434(1), Idaho Code, may, upon application to the department, register not more than two (2) motor vehicles and receive for each vehicle special license plates in lieu of regular numbered plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. The special license plates shall be designated by the department with the word "RESERVIST" centered along the bottom edge and be numbered in sets of two (2) with a different number following appropriate letters as follows: United States Army Reserve: Army (number); United States Navy Reserve: Navy (number); United States Marine Corps Reserve: USMC (number); United States Air Force Reserve: USAF (number); and United States Coast Guard Reserve: USCG (number). Proof of being an active member in the United States armed forces reserves must be furnished to the department before special plates will be issued. Special license plates issued under this section shall be issued under the staggered registration process provided for in section 49-402(1), Idaho Code, or the annual registration in section 49-434(1), Idaho Code.

(2) Any branch of the armed forces reserves of the United States shall, prior to an individual's discharge from duty in that branch of the armed forces reserve, require that the special armed forces reserve license plates either be turned back to the department or exchanged for other proper license plates as a condition of discharge.

(3) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402, Idaho Code. The initial program fee and the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement. When a plate holder transfers or assigns his title or interest in the vehicle registered under this section, the registration shall expire, but the special plates may be transferred to another vehicle upon payment of the required transfer fee. Special plates shall only be displayed after receipt of the new registration.

(4) The design and numbering scheme of the military reservist special plate shall be coordinated by the department with representatives of the

armed forces reserves. However, the department shall have the final approval of the plate design and numbering scheme to ensure conformity within existing issues of plates and to contain costs within the limit of the fees received from applicants. [I.C., § 49-404A, as added by 1991, ch. 113, § 1, p. 240; am. 1992, ch. 261, § 6, p. 755; am. 1997, ch. 129, § 2, p. 382; am. 1998, ch. 113, § 2, p. 418; am. 1999, ch. 316, § 3, p. 790; am. 2000, ch. 87, § 6, p. 188.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Effective Dates. — Section 2 of S.L. 1991, ch. 113 provided that the act should be in full force and effect on and after January 1, 1992.

Section 22 of S.L. 1992, ch. 261 read: "(1) This act shall be in full force and effect on and after January 1, 1993.

"(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-

406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department."

Section 10, S.L. 1999, ch. 316 provides that this act shall be in full force and effect on and after January 1, 2000.

49-405. Radio amateurs — Special license plates. — (1) In order to enhance visibility and identification of radio amateurs during times of emergency any radio amateur residing in the state of Idaho, may, upon application to the department, register one (1) motor vehicle per radio license issued by the federal government and receive for that vehicle special license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. The number on the plates shall be the same combination of figures and letters that make up the radio call sign of the amateur radio operator.

(2) Proof of holding an amateur license from the federal communications commission must be furnished to the department before the plates will be issued. Should the amateur's radio license expire during any given year and not be renewed, the special license plates must be surrendered to the department and regular license plates obtained.

(3) Radio amateurs will notify the department at a time to be set by the department of their intention to procure special license plates under the terms specified in this section. Failure to do so will result in the amateur being required to accept regular license plates should the department be unable to procure the special plates. Special plates may still be procured when available but amateurs will be subject to the usual transfer fee.

(4) Whenever an amateur transfers or assigns his title or interest to a vehicle especially registered the registration shall expire, but the amateur may hold his special license plates which he may have reissued to him upon the payment of the required transfer fees. He may only display the plates after receipt of new registration from the department.

(5) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the plate fee specified in section 49-450, Idaho Code. [1957, ch. 41, §§ 2-5, p. 75; am. 1974, ch. 27, §§ 100-102, p. 811; am. 1982, ch. 95, §§ 27-30, p. 185; am.

1984, ch. 195, § 21, p. 445; am. and redesign. 1988, ch. 265, § 74, p. 549; am. 1992, ch. 261, § 7, p. 755; am. 1994, ch. 278, § 1, p. 865; am. 1998, ch. 113, § 3, p. 418; am. 2000, ch. 87, § 7, p. 188.]

STATUTORY NOTES

Compiler's Notes. — Section 74 of S.L. 1988, ch. 265 amended and redesignated §§ 49-213 — 49-216 to become this section.

Former § 49-405 was amended and redesignated as § 49-504 by § 119 of S.L. 1988, ch. 265.

Effective Dates. — Section 22 of S.L. 1992, ch. 261 read: "(1) This act shall be in full force and effect on and after January 1, 1993.

"(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department."

JUDICIAL DECISIONS

Cited in: *Airstream, Inc. v. CIT Fin. Servs., Inc.*, 115 Idaho 569, 768 P.2d 1302 (1988).

49-406. Idaho old timer — Special license plate program — Registration and standard license plates. — (1) Any motor vehicle manufactured prior to January 1, 1943, that is maintained to its original likeness using original-type parts and materials, without major modifications shall be known as an "Idaho Old Timer." Any motor vehicle which is altered from its original design is not an "Idaho Old Timer" as herein defined.

(2) Any motor vehicle which qualifies as an "Idaho Old Timer" shall be used for exhibits, parades, tours, club activities and such occasional use as is necessary for operation and maintenance of the vehicle, and shall not be used for business or commercial purposes or as customary and usual transportation.

(3) Applicants for a special "Idaho Old Timer" license plate shall pay an initial program fee of twenty-five dollars (\$25.00) and the license plate fee required in section 49-450, Idaho Code, for each "Idaho Old Timer" plate which shall be displayed on the rear of the vehicle. The initial program fee shall be deposited in the state highway account, and the plate manufacturing fee shall be deposited in the plate manufacturing account.

(4) Once every three (3) years, on a schedule set by the department, an ownership verification form shall be mailed to each plate holder on file with the department. The owner shall provide such information as is requested by the department to verify ownership of the vehicle(s) and that the special license plate(s) is still in use by the owner. A fee of three dollars (\$3.00) shall be charged by the department for each vehicle. This fee shall be deposited in the state highway account to defray costs of the license plate program. If the owner no longer has an interest in a vehicle(s) the owner may retain the plates as specified in subsection (7) of this section. If the ownership verification form is not returned by the date specified by the department, the registration record will be purged from the files of the department. Any further use of the plate is lost to the owner and the plate number becomes available for issue to another applicant.

The reissue of license plates as specified in section 49-443(2), Idaho Code, shall not be required unless there is a general consensus among the majority of plate holders that a new plate design is needed. Representatives of the plate holders shall make the request known to the department. The cost of manufacturing a new design will be set by the department based upon the cost of manufacturing supplies and administering the reissue. The equivalent cost of each plate will be charged to each plate holder who purchases the new plate. If a new plate design is authorized, the design and color shall be approved by representatives of the interest group. The design, color and numbering scheme shall also be subject to approval of the department. The existing plate design will be canceled and all plate holders, present and future shall purchase and display the new plate.

(5) An applicant for the special "Idaho Old Timer" plate shall execute an affidavit on a form provided by the department that the vehicle qualifies as an old timer and shall only be used for the purposes allowed.

The department shall have the authority to refuse to issue a plate and may demand the return of such plate if the applicant has failed to comply with the provisions of this section.

(6) If an "Idaho Old Timer" is to be used as customary and usual transportation, or for business or commercial purposes, the owner shall register the vehicle under the provisions of section 49-402, or section 49-434, Idaho Code, as applicable, and shall obtain and display the standard issue of license plates after payment of the plate fee required in section 49-450, Idaho Code. It shall be permissible to display both the standard issue of plates and the special "Idaho Old Timer" plate.

(7) Whenever title or interest in an Old Timer vehicle is transferred or assigned, the transferor may retain the plates for use on another vehicle which qualifies by providing the information required in subsection (5) of this section and by paying the required transfer fee. If the vehicle is also registered under the provisions of section 49-402 or section 49-434, Idaho Code, the provisions of section 49-431, Idaho Code, relating to the procedure for assignment and transfer of interest, shall apply. [I.C., § 49-406, as added by 1993, ch. 99, § 3, p. 248; am. 1994, ch. 313, § 1, p. 996; am. 1995, ch. 109, § 1, p. 342; am. 1997, ch. 129, § 3, p. 382.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Plate manufacturing account, § 49-450A.

49-406A. Idaho classic — Special license plate program — Registration and standard license plates. — (1) Any motor vehicle or motorcycle which is at least thirty (30) years old that does not qualify as an "Idaho Old Timer" and that is maintained to its original likeness using original-type parts and materials, without major modifications shall be known as an "Idaho Classic." Any motor vehicle which is altered from its original design is not an "Idaho Classic" as herein defined.

(2) Any motor vehicle or motorcycle which qualifies as an "Idaho Classic" shall be used for exhibits, parades, tours, club activities and such occasional use as is necessary for operation and maintenance of the vehicle, and shall not be used for business or commercial purposes or as customary and usual transportation.

(3) Applicants for a special "Idaho Classic" license plate shall pay an initial program fee of twenty-five dollars (\$25.00) and the license plate fee required in section 49-450, Idaho Code, for each Idaho classic plate which shall be displayed on the rear of the vehicle. The initial program fee shall be deposited in the state highway account, and the plate manufacturing fee shall be deposited in the plate manufacturing account.

(4) Once every three (3) years, on a schedule set by the department, an ownership verification form shall be mailed to each plate holder on file with the department. The owner shall provide such information as is requested by the department to verify ownership of the vehicle(s) and that the special plate(s) is still in use by the owner. A fee of three dollars (\$3.00) shall be charged by the department for each vehicle. This fee shall be deposited in the state highway account to defray costs of the license plate program. If the owner no longer has an interest in a vehicle(s) the owner may retain the plate as specified in subsection (7) of this section. If the ownership verification form is not returned by the date specified by the department, the registration record will be purged from the files of the department. Any use of the plate(s) is lost to the owner and the plate number becomes available for issue to another applicant.

The reissue of license plates as specified in section 49-443(2), Idaho Code, shall not be required unless there is a general consensus among the majority of plate holders that a new plate design is needed. Representatives of the plate holders shall make the request known to the department. The cost of manufacturing a new design will be set by the department based upon the cost of manufacturing supplies and administering the reissue. The equivalent cost of each plate will be charged to each plate holder who purchases the new plate. If a new plate design is authorized, the design and color shall be approved by representatives of the interest group. The design, color and numbering scheme shall also be subject to the approval of the department. The existing plate design will be canceled and all plate holders, present and future shall purchase and display the new plate.

(5) An applicant for the special "Idaho Classic" plate shall execute an affidavit on a form provided by the department that the vehicle or motorcycle qualifies as an "Idaho Classic" and shall only be used for the purposes allowed.

The department shall have the authority to refuse to issue the plate and may demand the return of such plate if the applicant has failed to comply with the provisions of this section.

(6) If an "Idaho Classic" is to be used as customary and usual transportation, or for business or commercial purposes, the owner shall register the vehicle under the provisions of section 49-402, or section 49-434, Idaho Code, as applicable, and shall obtain and display the standard issue of license plates after payment of the plate fee required in section 49-450,

Idaho Code. It shall be permissible to display both the standard issue of plates and the "Idaho Classic" plate.

(7) Whenever title or interest in an Idaho classic motor vehicle or motorcycle is transferred or assigned, the transferor may retain the special plate for use on another vehicle which qualifies by providing the information required in subsection (5) of this section and by paying the required transfer fee. If the vehicle is also registered under the provisions of section 49-402 or section 49-434, Idaho Code, the provisions of section 49-431, Idaho Code, relating to the procedure for assignment and transfer of interest, shall apply. [I.C., § 49-406A, as added by 1993, ch. 99, § 5, p. 248; am. 1994, ch. 313, § 2, p. 996; am. 1995, ch. 109, § 2, p. 342; am. 1997, ch. 129, § 4, p. 382.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Plate manufacturing account, § 49-450A.

49-407. Year of manufacture plate. — Pursuant to rules of the department, any person who is the owner of a motor vehicle with any model year up to and through 1974 which is registered under section 49-402(1), Idaho Code, or section 49-434(1), Idaho Code, may display on the rear of the vehicle an authentic Idaho plate manufactured with a painted or embossed year matching the model year of the vehicle. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds.

In addition to the regular registration fees required in sections 49-402(1), and 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402, Idaho Code. All revenues from the initial program fee and the annual program fee shall be deposited in the state highway account. [1988, ch. 265, § 76, p. 549; am. 1992, ch. 261, § 10, p. 755; am. 1997, ch. 129, § 5, p. 382; am. 1998, ch. 113, § 4, p. 418; am. 1999, ch. 316, § 4, p. 790; am. 2000, ch. 87, § 8, p. 188; am. 2001, ch. 73, § 2, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

49-408. Street rod. — (1) Any motor vehicle manufactured prior to the year 1949, or designed and manufactured to resemble such a vehicle and which has been certified as a street rod may be registered as a street rod under the provisions of this section. However, the provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds.

(2) Any street rod shall have all equipment in operating condition which was specifically required by law as a condition for its first sale after manufacture. No law requiring any particular equipment or specifying any

standards to be met by motor vehicles shall apply to street rods unless it so specifically states.

(3) Upon receipt of an application on a form prescribed by the department for a special street rod automobile plate, accompanied by other documentation required in this section, the department shall issue to the applicant a special street rod automobile plate which shall be displayed on the rear of the vehicle. The registration certificate need not specify the weight of the street rod, and the plate issued shall bear no date but shall bear the inscription "Street Rod," "Idaho," a picture of a 1929 highway roadster, and the registration number issued for the street rod, and the plate shall be valid upon annual renewal under section 49-402 or 49-434(1), Idaho Code, as long as the vehicle is in existence. The plate will be issued for the applicant's use only for the particular vehicle, and in the event of a transfer of title, the transferor may hold the plate and transfer it to another qualifying street rod.

(4) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402, Idaho Code. All revenues from the initial program fee and the annual program fee shall be deposited in the state highway account.

(5) The department has the power to revoke any registration issued under this section for cause shown for failure of the applicant to comply with the provisions of this section. [1988, ch. 265, § 77, p. 549; am. 1990, ch. 176, § 2, p. 373; am. 1992, ch. 261, § 11, p. 755; am. 1997, ch. 129, § 6, p. 382; am. 1998, ch. 113, § 5, p. 418; am. 1999, ch. 316, § 5, p. 790; am. 2000, ch. 87, § 9, p. 188; am. 2001, ch. 73, § 3, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

49-409. Personalized license plates. — (1) Any person who is the owner of a vehicle registered under section 49-402 or 49-434(1), Idaho Code, may apply to the department for personalized license plates in lieu of regular numbered plates except that this provision shall not apply to a vehicle registered under section 49-434(1), Idaho Code, with a maximum gross weight over twenty-six thousand (26,000) pounds or any vehicle registered under section 49-435, Idaho Code. In addition to the regular registration fees required in section 49-402(1) and (2), section 49-422, and section 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee specified in section 49-402, Idaho Code. All revenues from the initial program fee and the annual program fee shall be deposited in the state highway account. The personalized license plates shall be of the same color and design as other license plates, and shall consist of numbers or letters, or any combination thereof, not exceeding seven (7) positions. No more than one (1) particular combination of letters and numbers shall be in existence at any one (1) time. The form for application of the plates will be as prescribed by the director who, at his

discretion, may refuse to issue the plates.

(2) When personalized license plates are issued for a vehicle, the regular license plates for that vehicle belong to the registrant and may be transferred to another vehicle owned by the personalized plate applicant. [I.C., § 49-231, as added by 1972, ch. 288, § 1, p. 724; am. 1974, ch. 27, § 106, p. 811; am. 1982, ch. 95, § 35, p. 185; am. 1984, ch. 195, § 23, p. 445; am. and redesisg. 1988, ch. 265, § 78, p. 549; am. 1989, ch. 259, § 1, p. 635; am. 1992, ch. 261, § 12, p. 755; am. 1997, ch. 129, § 7, p. 382; am. 1998, ch. 113, § 6, p. 418; am. 1999, ch. 316, § 6, p. 790; am. 2000, ch. 87, § 10, p. 188; am. 2001, ch. 73, § 4, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — This section was formerly compiled as § 49-231 and was amended and redesignated by § 78 of S.L. 1988, ch. 265 to become this section.

Former § 48-409 was amended and redesignated as § 49-507 by § 122 of S.L. 1988, ch. 265.

The reference to "section 49-402(1) and (2)", in subsection (1), was added to this section by S.L. 1999, ch. 316, § 6. That act also amended § 49-402. However, § 49-402 has been amended several times since 1999 and the provisions found in subsection (1) and (2) in

§ 49-402 in 1999 are now in subsections (1) and (3) of that section. The reference in this section should now be to "section 49-402".

Effective Dates. — Section 22 of S.L. 1992, ch. 261 read: "(1) This act shall be in full force and effect on and after January 1, 1993.

"(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department."

49-410. Special license plates and placards for persons with a disability — Parking privileges — Placards for certain temporarily disabled persons — Enforcement. — (1) Any person with a disability as defined in section 49-117, Idaho Code, or any parent or guardian of a dependent child with a disability as defined in section 49-117, Idaho Code, without regard to the age of the dependent child, shall be eligible for the use of special license plates bearing the international accessible symbol, for any vehicle owned by such person or owned by a qualified parent or guardian, but excluding any commercial vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. The parking privileges granted under the provisions of subsection (7) of this section shall apply to any vehicle displaying special license plates or placard issued pursuant to this section.

(2) Registration and license plate fees for vehicles owned by a person with a disability or qualified parent or guardian of a dependent child with a disability, shall be as provided, respectively, in sections 49-402, 49-434(1) and 49-450, Idaho Code. Nothing in this section shall be construed as abrogating provisions of section 49-445, Idaho Code. The use of the special placard issued under the provisions of subsection (4) of this section, shall not exempt the owner of a motor vehicle from otherwise properly registering and licensing the motor vehicle.

(3) Special license plates for persons with a disability and for the parent or guardian of a dependent child with a disability, shall be the same size and color as other license plates, and shall have displayed upon them the

registration numbers assigned to the vehicle and to the owner. The plates shall be numbered in a manner prescribed by the department, but the plates shall display the international accessible symbol.



International Accessible Symbol

(4) The department shall issue a special placard bearing the international accessible symbol and other information the department may require, to:

- (a) Any qualified person with a disability who does not own a motor vehicle;
- (b) Any qualified person with a disability who owns a motor vehicle, without regard to weight or use of the vehicle;
- (c) Any parent or guardian of a dependent child with a disability who owns a motor vehicle without regard to weight or use of the vehicle;
- (d) Any business entity which is engaged in transportation of persons with a disability, which business shall not be required to submit a physician's certification. In addition to other application requirements, a business applicant shall sign a declaration that he is engaged in the transportation of persons with a disability. A business entity may include, but not be limited to, hospitals, nursing homes, federal, state and local governmental agencies and taxicabs.

(5) Any person or business issued a special placard shall affix the special placard to a motor vehicle in a conspicuous place designated by the department. The placard shall bear distinguishing marks, letters or numerals indicating the vehicle is utilized by a permanently disabled person. When the placard is affixed to a motor vehicle and the motor vehicle is transporting a person with a disability, special parking privileges are granted as provided in subsection (7) of this section.

(6) Application for special license plates, a special placard, or both as applicable and at the option of the applicant, shall be made upon a form furnished by the department and shall include a written certification by a licensed physician, licensed physician assistant, or licensed advanced practice professional nurse verifying that the applicant's stated impairment qualifies as a disability according to the provisions of section 49-117, Idaho Code.

(7) Any motor vehicle displaying special license plates for a person with a disability, without regard to the state of residence or displaying the special placard provided in subsections (4) and (8) of this section, shall be allowed to park for unlimited periods of time in parking zones or areas which are otherwise restricted as to the length of time parking is permitted, to park in spaces and zones designated for persons with a disability, and to park in any public parking space with metered parking without being required to pay

any parking meter fee. The provisions of this subsection shall not be applicable to those zones or areas in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles, to areas where vehicular parking is prohibited for periods in excess of forty-eight (48) hours, or to areas where parking is prohibited for certain periods of time in order to allow snow removal, street construction or maintenance or for other emergency purposes. Nothing herein shall prohibit the designation of parking spaces for use by disabled persons for unlimited periods of time.

(8) Any person who shall submit satisfactory proof to the department that he is so temporarily disabled as defined in section 49-117(7)(b), Idaho Code, shall be entitled to receive for one (1) motor vehicle only, a special placard to be affixed to a motor vehicle in a conspicuous place designated by the department, bearing distinguishing marks, letters or numerals indicating that the vehicle is utilized by a temporarily disabled person. This special temporary placard shall be valid between one (1) and six (6) months depending on the written authorization of the licensed physician, licensed physician assistant, or licensed advanced practice professional nurse and as specified by the department on the placard.

(9) Any use of the plate or placard by any person other than those meeting the definition of disability under section 49-117(7)(b), Idaho Code, or as otherwise authorized by this section, to obtain parking shall constitute an infraction punishable by a fine of one hundred dollars (\$100).

(10) Any person who unlawfully possesses, sells, copies, duplicates, distributes, [or] manufactures or aids and abets in the unlawful possession, sale, copying, duplicating, distributing or manufacturing of a special plate or placard is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), or by imprisonment in the county jail for a period not to exceed thirty (30) days or by both. The court shall also impose as a term of the sentence a period not to exceed forty (40) hours of community service provided to a nonprofit organization which serves people with disabilities. The unlawfully obtained special plate or placard shall be subject to confiscation by law enforcement officials. Following conviction or dismissal, the special plate or placard confiscated by law enforcement shall be sent to the department.

Law enforcement officials and/or their designees as authorized by a city or county shall enforce the provisions of subsections (1) through (9) of this section and are empowered, using reasonable discretion, to check personal identification to determine if the user of the plate or placard is authorized to use accessible parking privileges. Any fines collected shall be retained by the city or county whose law enforcement official issued the citation. [I.C., § 49-236, as added by 1977, ch. 285, § 1, p. 818; I.C., § 49-237, as added by 1980, ch. 260, § 2, p. 674; am. 1980, ch. 260, § 1, p. 674; am. 1981, ch. 205, §§ 2, 3, p. 368; am. 1982, ch. 95, §§ 38, 39, p. 185; am. 1983, ch. 79, § 1, p. 165; redessig. and am. 1984, ch. 77, §§ 1, 2, p. 141; I.C., § 49-697, as added by 1984, ch. 77, § 3, p. 141; am. 1985, ch. 36, § 6, p. 70; am. 1988, ch. 202, §§ 1-3, p. 380; am. and redessig. 1988, ch. 265, § 79, p. 549; am. 1989, ch. 310, § 15, p. 769; am. 1990, ch. 159, § 1, p. 346; am. 1992, ch. 35, § 12, p.

99; am. 1994, ch. 264, § 4, p. 813; am. 1995, ch. 246, § 1, p. 815; am. 1998, ch. 113, § 7, p. 418; am. 1999, ch. 309, § 2, p. 767; am. 2000, ch. 32, § 1, p. 59; am. 2000, ch. 87, § 11, p. 188; am. 2003, ch. 162, § 2, p. 455.]

STATUTORY NOTES

Amendments. — This section was amended by two 2000 acts — ch. 32, § 1 and ch. 87, § 11 — both effective July 1, 2000, which do not conflict and have been compiled together.

The 2000 amendment, by ch. 32, § 1, near the end of subsection (7), added “to areas where vehicular parking is prohibited for periods in excess of forty-eight (48) hours, or to areas where parking is prohibited for certain periods of time in order to allow snow removal, street construction or maintenance or for other emergency purposes. Nothing herein shall prohibit the designation of parking spaces for use by disabled persons for unlimited periods of time”.

The 2000 amendment, by ch. 87, § 11, in subsection (1), substituted “twenty-six thousand (26,000) pounds” for “sixteen thousand pounds”.

Compiler's Notes. — Section 79 of S.L. 1988, ch. 265 amended and redesignated §§ 49-695 — 49-697 to become this section.

Former § 49-410 was amended and redesignated as § 49-508 by § 123 of S.L. 1988, ch. 265.

Effective Dates. — Section 2 of S.L. 1990, ch. 159 declared an emergency. Approved March 27, 1990.

49-410A. Recertification required. [Null and void.]

STATUTORY NOTES

Compiler's Notes. — Section 2 of S.L. 1997, ch. 172 provided that this section should be null and void on and after July 1, 1998.

49-411. Dealer and manufacturer plate — Fees. — (1) Any person conducting the business of manufacturing, buying, selling or dealing in vehicles, and licensed as a manufacturer of or a dealer in vehicles, and owning and operating any such vehicle upon any highway may, in lieu of registering each vehicle obtain from the department upon application on the proper form and payment of the required fee, and attach to each vehicle, one (1) number plate as required for different classes of vehicles in section 49-434, Idaho Code. The special number plate shall bear a distinctive number assigned to the manufacturer or dealer, the name of this state, which may be abbreviated, and the year for which the plate is issued, together with words which may be abbreviated or a distinguishing symbol indicating that the plate is issued to a manufacturer or dealer.

(a) Dealer license plates shall be limited to two (2) license plates for up to twenty (20) vehicles sold during the previous dealer licensing period and one (1) license plate for each ten (10) additional vehicles sold during the previous dealer licensing period. Any new dealer who applies for a dealer license shall be eligible for the number of dealer plates requested based on the number of vehicles that the dealer estimates he will sell during the first year of licensure.

(b) Upon renewal of a dealer's license, the department may audit vehicle sales from previous years to determine the number of dealer plates that will be authorized for the current dealer licensing period.

(2) The fee to validate a dealer or manufacturer number plate shall be twelve dollars (\$12.00) for each validation sticker.

(3) All such fees shall be paid to the state treasurer and deposited to the state highway account. [I.C., § 49-411, as added by 1988, ch. 265, § 80, p. 549; am. 1994, ch. 246, § 1, p. 766; am. 1998, ch. 156, § 1, p. 533; am. 2001, ch. 73, § 5, p. 154; am. 2003, ch. 125, § 1, p. 375.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Legislative Intent. — Section 2 of S.L. 1998, ch. 156 provided: "It is the intent of the Legislature that the increase in fees provided in Section 1 of this act shall apply to registra-

tion periods which begin on and after January 1, 1999."

Compiler's Notes. — Former § 49-411 was amended and redesignated as § 49-509 by § 124 of S.L. 1988, ch. 265.

49-412. Vehicle dealer loaner plate. — (1) A dealer, owning a vehicle may obtain, upon application to the department upon a proper form and payment of the fee required, and display on a vehicle loaned to a customer, a loaner vehicle number plate. The plate shall be the same design and numbering system as the plate issued for passenger vehicles or motorcycles.

(2) The fee for each loaner plate or registration sticker shall be as provided in section 49-402(1), Idaho Code, for new vehicles.

(3) All such fees shall be paid to the state treasurer and deposited to the state highway account. [I.C., § 49-412, as added by 1988, ch. 265, § 81, p. 549; am. 1994, ch. 246, § 2, p. 766.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — Former § 49-412

was amended and redesignated as § 49-510 by § 125 of S.L. 1988, ch. 265.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 161 et seq.

49-413. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-413 was amended and redesignated as § 49-511 by § 126 of S.L. 1988, ch. 265.

49-414. Legislative license plates — Fees. — (1) Special legislative license plates shall be issued by the department upon application and payment of the required fees. Each legislator is eligible to register and receive special license plates for one (1) vehicle whose registered maximum gross weight does not exceed twenty-six thousand (26,000) pounds. The registration period shall be for one (1) year, from January 1 through

December 31, and may be renewed, as long as the legislator holds office. The plates shall bear either the inscription "House" or "Senate," shall contain a consecutive numbering from one (1) through the maximum number of members in each body with the numbers to be assigned by the speaker of the house of representatives and the president pro tempore of the senate, and shall otherwise comply with the provisions of section 49-443, Idaho Code.

(2) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee as specified in section 49-402, Idaho Code. All revenues from the initial program fee and the annual program fee shall be deposited in the state highway account. [I.C., § 49-414, as added by 1988, ch. 265, § 82, p. 549; am. 1992, ch. 261, § 13, p. 755; am. 1997, ch. 129, § 8, p. 382; am. 1998, ch. 113, § 8, p. 418; am. 1999, ch. 316, § 7, p. 790; am. 2000, ch. 87, § 12, p. 188; am. 2001, ch. 73, § 6, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — Former § 49-414 was amended and redesignated as § 49-512 by § 127 of S.L. 1988, ch. 265.

Effective Dates. — Section 22 of S.L. 1992, ch. 261 read: "(1) This act shall be in full force and effect on and after January 1, 1993.

"(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department."

49-415. Former prisoner of war license plates. — (1) Any veteran, who was a prisoner of war (POW) of an armed enemy of the United States during active service in the armed forces of the United States, that service occurring during any portion of a recognized war period enumerated in this section, and who has been released or discharged from the armed forces under other than dishonorable conditions, may upon application to the department, register and receive for not more than two (2) motor vehicles, special former prisoner of war license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds.

(2) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the plate fee required in section 49-450, Idaho Code. Whenever a former prisoner of war transfers or assigns his title or interest to a vehicle registered under this section the registration shall expire, but the former prisoner of war may hold the special plates and may have them transferred to another vehicle upon payment of the required transfer fee provided in section 49-431, Idaho Code. He may only display the plates after receipt of the new registration document from the department.

(3) Former prisoner of war license plates shall bear the words "Former Prisoner of War" and a declaration of the period of service, and shall in all other respects be as provided by law.

(4) Recognized war periods for the purpose of this section shall be any period of war recognized by the United States department of veterans

affairs for the purpose of awarding federal veterans benefits as may be defined in title 38, U.S. code, chapter 1, section 101(11).

(5) Former prisoner of war license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased former prisoner of war. In addition, the surviving spouse of the deceased former prisoner of war is eligible to reapply for and shall be issued former prisoner of war license plates if the deceased former prisoner of war died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse. [I.C., § 49-231A, as added by 1986, ch. 106, § 1, p. 293; am. and redesign. 1988, ch. 265, § 83, p. 549; am. 1991, ch. 219, § 2, p. 523; am. 1992, ch. 23, § 1, p. 71; am. 1992, ch. 261, § 14, p. 755; am. 1998, ch. 113, § 9, p. 418; am. 2000, ch. 37, § 2, p. 66; am. 2000, ch. 87, § 13, p. 188.]

STATUTORY NOTES

Amendments. — This section was amended by two 1992 acts — ch. 23, § 1, effective July 1, 1992, and ch. 261, § 14, effective January 1, 1993 — which do not appear to conflict and have been compiled together.

The 1992 amendment, by ch. 23, § 1, in subsection (2) in the first sentence substituted “the plate fee as provided in section 49-450, Idaho Code” for “an initial one time fee of ten dollars (\$10.00) for the issuance of such plates”.

The 1992 amendment, by ch. 261, § 14, in the section heading substituted “Former prisoner of war license” for “Special” and deleted “POW” following “plates”; in subsection (1) substituted “two (2)” for “one (1)” following “not more than”, substituted “vehicles” for “vehicle” following “motor”, substituted “former prisoner of war license” for “POW number” preceding “plates in lieu”, and substituted “license” for “number” preceding “plates” at the end of the subsection. In subsection (2) in the first sentence deleted “annual” following “to the regular”, added “required in section 49-402(1), Idaho Code” following “registration fee”, substituted “pay the plate fee required in section 49-450, Idaho Code” for “be charged an initial one time fee of ten dollars (\$10.00) for the issuance of such plates” following “applicant shall”; in the second sentence deleted “qualifying” following “Whenever a”, substituted “prisoner of war” for “POW” following “former”, deleted “especially” preceding “registered under this section”, substituted “prisoner of war” for “POW” preceding “may hold”, substituted “the” for “his” preceding “special plates”, substituted “and” for “which he” preceding “may have”, substituted “them transferred to another vehicle” for “reissued to him” following “may have”, deleted “the” preceding “payment of the required”, substituted “fee” for “fees” fol-

lowing “required transfer”, and added “provided in section 49-431, Idaho Code” at the end of the sentence; in the third sentence substituted “those” for “the” following “may only display”, added “the” preceding “new registration”, and added “document” preceding “from the department.” In subsection (3) substituted “Former prisoner of war license” for “POW” at the beginning of the subsection, and substituted “words ‘Former Prisoner of War’ and a declaration of the period of service” for “letters ‘POW’ followed by three (3) numerals” following “shall bear the”.

This section was amended by two 2000 acts — ch. 37, § 2, effective March 9, 2000 and ch. 87, § 13, effective July 1, 2000 — which do not conflict and have been compiled together.

The 2000 amendment, by ch. 37, § 2, added subsection (5).

The 2000 amendment, by ch. 87, § 13, in subsection (1), substituted “twenty-six thousand (26,000) pounds” for “sixteen thousand (16,000) pounds”.

Compiler's Notes. — This section was formerly compiled as § 49-231A and was amended and redesignated by § 83 of S.L. 1988, ch. 265 to become this section.

Former § 49-415 was amended and redesignated as § 49-513 by § 128 of S.L. 1988, ch. 265.

Effective Dates. — Section 6 of S.L. 2000, ch. 37 declared an emergency. Approved March 9, 2000.

Section 22 of S.L. 1992, ch. 261 read: “(1) This act shall be in full force and effect on and after January 1, 1993.

“(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department.”

49-415A. Congressional medal of honor license plates. — (1) Congressional medal of honor license plates are available to applicants who furnish proof of entitlement by certification from the United States Veterans Administration attesting to their status as a congressional medal of honor recipient.

(2) The license plates shall be provided free of charge. The applicant shall pay the regular annual registration fees required by section 49-402 or 49-434(1), Idaho Code. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. If the plate holder transfers his title or interest to a vehicle registered under this section, the plates may be transferred to another vehicle owned by the plate holder. If the plates are unexpired, the plate holder shall be given credit for the unexpired portion of the registration fee against the new registration fee. The transfer fee specified by section 49-431(1), Idaho Code, shall apply.

(3) These provisions shall apply to the vehicle to which the plates were originally issued and to any vehicle subsequently purchased and owned by the medal of honor recipient, except that the privilege shall not extend to more than two (2) vehicles at a time.

(4) Congressional medal of honor license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased congressional medal of honor recipient. In addition, the surviving spouse of a deceased congressional medal of honor recipient is eligible to reapply for and shall be issued congressional medal of honor license plates if the deceased congressional medal of honor recipient died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse. [I.C., § 49-415A, as added by 1989, ch. 271, § 1, p. 659; am. 1992, ch. 261, § 15, p. 755; am. 1998, ch. 113, § 10, p. 418; am. 2000, ch. 37, § 3, p. 66; am. 2000, ch. 87, § 14, p. 188.]

STATUTORY NOTES

Amendments. — This section was amended by two 2000 acts — ch. 37, § 3, effective March 9, 2000 and ch. 87, § 14, effective July 1, 2000 — which do not conflict and have been compiled together.

The 2000 amendment, by ch. 37, § 3, added subsection (4).

The 2000 amendment, by ch. 87, § 14, in subsection (1), substituted “twenty-six thousand (26,000) pounds” for “sixteen thousand (16,000) pounds.”

Effective Dates. — Section 22 of S.L.

1992, ch. 261 read: “(1) This act shall be in full force and effect on and after January 1, 1993.

“(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department.”

Section 6 of S.L. 2000, ch. 37 declared an emergency. Approved March 9, 2000.

49-415B. Pearl Harbor survivor special plates. — (1) Any veteran who was on active duty in the armed forces of the United States and assigned or stationed at Pearl Harbor, Hawaii, or within three (3) miles of the island of Oahu on December 7, 1941, and who has been released or discharged from the armed forces under other than dishonorable conditions,

may upon application to the department, register and receive for not more than two (2) motor vehicles, special Pearl Harbor survivor number plates in lieu of regular number plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds.

(2) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall be charged the plate fee required in section 49-450, Idaho Code. Whenever a qualifying survivor of the Japanese attack on Pearl Harbor on December 7, 1941, transfers or assigns his title or interest to a vehicle especially registered under this section, the registration shall expire, but the Pearl Harbor survivor may hold his special plates which he may have reissued to him upon the payment of the required transfer fees. He may only display those plates after receipt of a new registration from the department.

(3) Pearl Harbor survivor plates shall bear the characters: "Pearl Harbor Survivor" and shall in all other respects be as provided by law.

(4) Pearl Harbor survivor license plates may be retained and displayed on vehicles owned by the surviving spouse of a deceased Pearl Harbor survivor veteran. In addition, the surviving spouse of a deceased Pearl Harbor survivor veteran is eligible to reapply for and shall be issued Pearl Harbor survivor license plates if the deceased Pearl Harbor survivor veteran died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse. [I.C., § 49-415B, as added by 1991, ch. 85, § 1, p. 190; am. 1992, ch. 26, § 2, p. 81; am. 1992, ch. 261, § 16, p. 755; am. 1998, ch. 113, § 11, p. 418; am. 2000, ch. 37, § 4, p. 66; am. 2000, ch. 87, § 15, p. 188.]

STATUTORY NOTES

Amendments. — This section was amended by two 1992 acts — ch. 26, § 2 and ch. 261, § 16 — both effective January 1, 1993, which do not appear to conflict and have been compiled together.

Subsection (2) as amended by S.L. 1992, ch. 26, § 2 would have read: "(2) In addition to the regular annual registration fee, the applicant shall be charged the plate fee as provided in section 49-450, Idaho Code, except that the fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement. Whenever a qualifying survivor of the Japanese attack on Pearl Harbor on December 7, 1941, transfers or assigns his title or interest to a vehicle especially registered under this section, the registration shall expire, but the Pearl Harbor survivor may hold his special plates which he may have reissued to him upon the payment of the required transfer fees. He may only display those plates after receipt of a new registration from the department."

The 1992 amendment, by ch. 261, § 16, in subsection (1) added "or within three (3) miles of the island of Oahu" following "Harbor, Hawaii", substituted "two (2)" for "one (1)" following "not more than", and substituted "vehicles" for "vehicle" preceding "special Pearl", in subsection (2) deleted "annual" preceding "In addition to the regular", substituted "required in section 49-402 (1), Idaho Code" following "registration fee" and substituted "the plate fee required in section 49-450, Idaho Code" for "an initial fee of twenty-five dollars (\$25.00) for the issuance of the plates and an annual renewal fee of fifteen dollars (\$15.00). The initial fee and the annual fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program which is provided to the public as a personal alternative to the standard license plate requirement", thereby merging the former first and second sentences into the present first sentence; and added a comma following "1941", and in subsection (3) deleted "followed by three (3) numerals" following "Pearl Harbor Survivor".

This section was amended by two 2000 acts — ch. 37, § 4, effective March 9, 2000 and ch. 87, § 15, effective July 1, 2000, which do not conflict and have been compiled together.

The 2000 amendment, by ch. 37, § 4, added subsection (4).

The 2000 amendment, by ch. 87, § 15, in subsection (1), substituted “twenty-six thousand (26,000) pounds” for “sixteen thousand (16,000) pounds”.

Effective Dates. — Section 3 of S.L. 1992, ch. 26 provided that the act would become effective January 1, 1993.

Section 22 of S.L. 1992, ch. 261 read: “(1) This act shall be in full force and effect on and after January 1, 1993.

“(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department.”

Section 6 of S.L. 2000, ch. 37 declared an emergency. Approved March 9, 2000.

49-415C. National rifle association license plates. — (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special national rifle association license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of national rifle association license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the highway distribution account established in section 40-701, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The national rifle association license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to appropriate representatives of the national rifle association and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the national rifle association.

(5) Sample national rifle association license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the highway distribution account established in section 40-701, Idaho Code. [I.C., § 49-415C, as added by 2006, ch. 41, § 2, p. 119.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

ch. 41 provided that the act should take effective on and after January 1, 2007.

Effective Dates. — Section 3 of S.L. 2006,

49-415D. Support our troops plates. — (1) On and after January 1, 2008, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive support our troops license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of support our troops license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho support our troops, inc.'s principal office located in Boise, Idaho, and shall be used by the Idaho support our troops, inc. as administrator of the funds, to provide support and assistance to the children, dependents and spouses of military service members and armed forces members of the army, navy, air force, marine corps, national guard, coast guard and air national guard and reserves.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The support our troops license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the board of directors of the Idaho support our troops, inc. and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho support our troops, inc.

(5) Sample support our troops license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho support our troops, inc.'s principal office located in Boise, Idaho, and shall be used to provide support and assistance to the children, dependents and spouses of military service members and armed forces members of the army, navy, air force, marine corps, national guard,

coast guard and air national guard and reserves. [I.C., § 49-415D, as added by 2007, ch. 256, § 2, p. 760.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702. ch. 256 provided that the act should take effect on and after January 1, 2008.

Effective Dates. — Section 3 of S.L. 2007,

49-415E. Idaho 2009 special olympics world winter games plates.

— (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive Idaho 2009 special olympics world winter games license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho 2009 special olympics world winter games license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the 2009 special olympics world winter games headquarters in Boise, Idaho, and shall be used by this international nonprofit organization to provide support and assistance to their programs dedicated to empowering individuals with intellectual disabilities to become physically fit, productive and respected members of society through sports training and competition.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The 2009 special olympics world winter games license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the Idaho 2009 special olympics world winter games board of directors and shall be approved by the transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho 2009 special olympics world winter games.

(5) Sample Idaho 2009 special olympics world winter games license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars

(\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the 2009 special olympics world winter games headquarters in Boise, Idaho, and shall be used by this international nonprofit organization to provide support and assistance to their programs dedicated to empowering individuals with intellectual disabilities to become physically fit, productive and respected members of society through sports training and competition. [I.C., § 49-415E, as added by 2008, ch. 193, § 2, p. 606.]

STATUTORY NOTES

Effective Dates. — Section 3 of S.L. 2008, ch. 193 declared an emergency. Approved March 18, 2008.

49-416. Statehood centennial license plates. — (1) Statehood centennial license plates are available to owners of motor vehicles required to be registered under section 49-402(1) or section 49-434(1), Idaho Code, upon application at a county assessor's office or at the department. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of statehood centennial plates for other classes of vehicle registrations shall be as authorized by rule of the department. In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee and the annual program fee as specified in section 49-402, Idaho Code. All revenues from such initial registration and annual renewal fees shall be deposited in the highway distribution account.

(2) The statehood centennial license plates shall be of a color and design approved by the department, utilizing a numbering system approved by the board. The statehood centennial license plates must be surrendered upon failure to pay the annual special fee and renewal fees.

(3) Any person who applies for statehood centennial license plates, may also apply for personalized numbers and/or letters on those plates, as provided for in section 49-409, Idaho Code. [I.C., § 49-218, as added by 1986, ch. 211, § 1, p. 545; am. 1987, ch. 146, § 1, p. 290; am. and redesign. 1988, ch. 265, § 84, p. 549; am. 1990, ch. 385, § 1, p. 1062; am. 1991, ch. 205, § 1, p. 486; am. 1992, ch. 35, § 13, p. 99; am. 1992, ch. 261, § 17, p. 755; am. 1997, ch. 129, § 9, p. 382; am. 1998, ch. 113, § 12, p. 418; am. 1999, ch. 316, § 8, p. 790; am. 2000, ch. 87, § 16, p. 188.]

STATUTORY NOTES

Cross References. — Highway distribution account, § 40-701.

Amendments. — This section was amended by two 1992 acts — ch. 35, § 13, effective July 1, 1992 and ch. 261, § 17, effective January 1, 1993 — which do not appear to conflict and have been compiled together.

The 1992 amendment, by ch. 35, § 13, in subsection (1) in the former fourth and fifth sentences deleted "issued or renewed on or before December 31, 1990, shall be deposited in the statehood centennial commission account. On and after January 1, 1991, revenues from the special fees" thereby merging the former fourth and fifth sentences into the

present fourth sentence; in subsection (2) in the first sentence substituted "department" for "Idaho statehood centennial commission" following "design approved by the"; and deleted subsections (4) and (5) which read: "(4) The fee for replacement plates shall be the fees required in section 49-425, Idaho Code, for each pair of centennial plates issued, together with any other fees imposed in this section, with the special centennial plate fee deposited in the highway distribution account and other fees deposited as provided by law.

"(5) Moneys deposited into the Idaho statehood centennial commission account are hereby appropriated to the Idaho statehood centennial commission for the period from the effective date of this act through June 30, 1991."

The 1992 amendment, by ch. 261, § 17, in subsection (1) in the third sentence deleted "and other" following "regular registration", substituted "fee" for "fees" and added "required in section 49-402(1), Idaho Code" preceding "the applicant shall", substituted "pay"

for "be charged a special fee of twenty-five dollars (\$25.00) at the time of" following "applicant shall", substituted "program fee and the" for "issuance of such plates, and ten dollars (\$10.00) upon each succeeding" following "the initial", and added "program fee as specified in section 49-402(9), Idaho Code" for "registration of the vehicle, so long as the plates are in use" at the end of the sentence; in the former fourth and fifth sentences deleted "for registrations issued or renewed on or before December 31, 1990, shall be deposited in the statehood centennial commission account. On and after January 1, 1991, revenues from the special fees" thereby merging the former fourth and fifth sentences into the present fourth sentence; in subsection (2) substituted "department" for "Idaho statehood centennial commission" following "approved by the" and deleted subsections (4) and (5).

Compiler's Notes. — This section was formerly compiled as § 49-218 and was amended and redesignated by § 84 of S.L. 1988, ch. 265 to become this section.

49-416A. Historic Lewiston plates. — (1) On and after January 1, 2005, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special historic Lewiston license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of historic Lewiston license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Lewiston historic preservation commission, and shall be used by the commission to demonstrate commitment, through substantial educational, economic and outreach programs, to the preservation and interpretation of Idaho history and Lewiston's role as Idaho's first territorial capital.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The historic Lewiston license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design

and any slogan on the plate shall be acceptable to the Lewiston historic preservation commission and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Lewiston historic preservation commission.

(5) Sample historic Lewiston license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Lewiston historic preservation commission and shall be used to demonstrate commitment, through substantial educational, economic and outreach programs, to the preservation and interpretation of Idaho history and Lewiston's role as Idaho's first territorial capital. [I.C., § 49-416A, as added by 2004, ch. 81, § 2, p. 306.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

ch. 81 provided that the act should take effect on and after January 1, 2005.

Effective Dates. — Section 3 of S.L. 2004,

49-416B. Basque plates. — (1) On and after January 1, 2006, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Basque license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Basque license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Cenarrusa center for Basque studies at the Basque museum located in Boise, Idaho, and shall be used by the center to demonstrate commitment, through substantial educational and outreach programs, to the preservation of the Basque people, their culture, language and Basque contributions to Idaho and Idaho's history.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Basque license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any

slogan on the plate shall be acceptable to the governing board of the Cenarrusa center for Basque studies and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Cenarrusa center for Basque studies.

(5) Sample Basque license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Cenarrusa center for Basque studies at the Basque museum located in Boise, Idaho, and shall be used by the center to demonstrate commitment, through substantial educational and outreach programs, to the preservation of the Basque people, their culture, language and Basque contributions to Idaho and Idaho's history. [I.C., § 49-416B, as added by 2005, ch. 154, § 2, p. 481.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702. ch. 154 provided that the act should take effect on and after January 1, 2006.

Effective Dates. — Section 3 of S.L. 2005,

49-416C. Science and technology plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special science and technology license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of science and technology license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the office of science and technology fund created in section 67-4725, Idaho Code, and shall be used by the science technology division of the department of commerce for attracting science and technology companies to locate or to expand their operations in Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The science and technology license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the director of the department of commerce and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the department of commerce.

(5) Sample science and technology license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the office of science and technology fund, and shall be used by the office for attracting science and technology companies to locate or to expand their operations in Idaho. [I.C., § 49-416C, as added by 2005, ch. 102, § 2, p. 321; am. 2006, ch. 16, § 6, p. 42; am. 2007, ch. 360, § 14, p. 1061.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — The 2006 amendment, by ch. 16, substituted “49-434(1)” for “49-431(1)” near the beginning of subsection (1).

The 2007 amendment, by ch. 360, twice

deleted “and labor” following “department of commerce” in subsection (4).

Effective Dates. — Section 4 of S.L. 2005, ch. 102 provided that the act should take effect on after after January 1, 2006.

49-416D. Idaho state historic preservation plates. — (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho state historic preservation license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho state historic preservation license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the Idaho historic preservation and cultural enhancement fund created in section 67-4129B, Idaho Code, and shall be used by the state historical society to protect and preserve the heritage and cultural resources of the state.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special

plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho state historic preservation license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the director of the state historical society and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the state historical society.

(5) Sample Idaho state historic preservation license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho historic preservation and cultural enhancement fund for protection and preservation of the state's cultural resources, historic buildings, structures, artifacts, and records; for enhancement of statewide cultural and historic education opportunities; and for historical research purposes. [I.C., § 49-416D, as added by 2006, ch. 119, § 2, p. 334.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

State historical society, § 67-4113 et seq.

Effective Dates. — Section 4 of S.L. 2006, ch. 119 provided that the act should take effect January 1, 2007.

49-416E. Breast cancer education and screening plates. — (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special breast cancer education and screening license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of breast cancer education and screening license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho primary care association located in Boise, Idaho, and shall be distributed by the Idaho primary care association as administrator of the funds, to Idaho community health centers to be used for breast cancer education and screening of women who lack insurance

coverage or funds to pay for services related to breast cancer education and screening.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The breast cancer education and screening license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the governing board of the Idaho primary care association and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho primary care association.

(5) Sample breast cancer education and screening license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho primary care association located in Boise, Idaho, and shall be distributed by the association to Idaho community health centers to be used for breast cancer education and screening of women who lack insurance coverage or funds to pay for services related to breast cancer education and screening. [I.C., § 49-416E, as added by 2006, ch. 176, § 2, p. 541.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

ch. 176 provided that the act should take effect on and after January 1, 2007.

Effective Dates. — Section 3 of S.L. 2006,

49-417. Idaho wildlife special plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for any one (1) of three (3) Idaho wildlife special license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer in the fish and game set-aside account pursuant to section 36-111, Idaho Code, for use in the nongame wildlife program. This fee shall be treated as a contribution to the nongame wildlife program, and shall not be considered a motor vehicle registration fee as described in section 17, article VII, of the constitution of the state of Idaho.

(a) The fish and game commission shall designate one dollar and twenty-five cents (\$1.25) of each initial fee and seventy-five cents (75¢) of each renewal fee from the elk wildlife special plate to the department of fish and game's wildlife disease laboratory program to be used for testing, surveillance and detection of diseases that may affect wildlife including, but not limited to, chronic wasting disease.

(b) The state controller shall annually, by August 1 of each year, transfer an amount equivalent to one dollar and twenty-five cents (\$1.25) of each initial elk wildlife special plate and seventy-five cents (75¢) of each renewal elk wildlife special plate sold in the prior fiscal year from the fish and game set-aside account to the department of agriculture's livestock disease control fund to be used for testing, surveillance and detection of wildlife diseases and domestic livestock diseases that may affect wildlife including, but not limited to, brucellosis and chronic wasting disease.

(c) The state controller shall annually, by August 1 of each year, transfer an amount equivalent to two dollars and fifty cents (\$2.50) of each initial cutthroat wildlife special plate and one dollar and twenty-five cents (\$1.25) of each renewal cutthroat wildlife plate sold in the prior fiscal year from the fish and game set-aside account to the department of parks and recreation fund established in section 67-4225, Idaho Code, for the construction and maintenance of nonmotorized boating access facilities for anglers.

Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department.

(3) Each Idaho wildlife license plate shall be of a color and design acceptable to the board of directors of the Idaho fish and wildlife foundation and approved by the department, utilizing a numbering system as determined by the department. The Idaho fish and wildlife foundation is authorized to design more than one (1) wildlife plate, but the department may not allow more than three (3) different designs to be in use at any one (1) time. Initial costs of the plate program including costs of plate design shall be paid by the Idaho fish and wildlife foundation.

(4) Sample Idaho wildlife plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account to be used to fund the cost of administration of this special license plate program. Twenty dollars (\$20.00) of the purchase fee shall be deposited in the fish and game set-aside account pursuant to section 36-111, Idaho Code, for use in the nongame wildlife program. [I.C., § 49-417, as added by 1992, ch. 190, § 1, p. 593; am. 1998, ch. 113, § 13, p. 418; am. 1998, ch. 336, § 1, p. 1081; am. 1999, ch. 315, § 2, p. 782; am. 2000, ch. 87, § 17, p. 188; am. 2002, ch. 362, § 1, p. 1021.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Fish and game commission, § 36-102.

Amendments. — This section was

amended by two 1998 acts — ch. 113, § 13, effective January 1, 1999 and ch. 336, § 1, effective July 1, 1998 — which do not appear to conflict and have been compiled together.

The 1998 amendment, by ch. 113, § 13, in subsection (1), deleted “On and after July 1, 1993” at the beginning of the subsection, inserted “or 49-434(1)” at the end of the first sentence, and added the second sentence.

The 1998 amendment, by ch. 336, § 1, in subsection (1), substituted “1998” for “1993” and inserted “any one (1) of two (2)”; in subsection (2), substituted “wildlife” for “management and protection” at the end of the third sentence, and added the fourth sentence; in subsection (3), substituted “Each” for

“The” at the beginning of the subsection, added the second sentence, and deleted “board of directors of the” following “paid by the” in the third sentence; and, in subsection (4), substituted “to be used to fund the cost of administration of this special license plate program” for “and” in the first sentence, and, in the second sentence, substituted “the purchase fee” for “which” and substituted “wildlife” for “management and protection.”

Compiler’s Notes. — Former § 49-417 was amended and redesignated as § 49-515 by § 130 of S.L. 1988, ch. 265.

Effective Dates. — Section 3 of S.L. 2002, ch. 362 provided that the act should take effect on and after January 1, 2003.

49-417A. Idaho timber special plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for Idaho timber special license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer in the department of lands fund for use in reforestation activities on state lands, provided however, that prior to the beginning of any fiscal year, the state board of land commissioners may agree that funds made available under this section to the department of lands for the coming year would better further reforestation objectives of the management and conservation of forest resources on public and private lands in the state if expended for educational efforts set forth in this section.

Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. He may only display the plates after receipt of new registration from the department.

(3) The Idaho timber license plate shall be of a color and design acceptable to the members of the Idaho forest products commission and approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the director of the department of lands from funds appropriated to that department.

(4) Sample Idaho timber plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be deposited in the department of lands fund for use in reforestation activities or educational efforts as set forth in this section.

(5) Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee of each timber special license plate, and twenty dollars (\$20.00) for each sample timber special license plate, shall be deposited with the state treasurer and credited to the department of lands. Funds so deposited and subsequently directed by the state board of land commissioners for educational efforts as set forth in this section shall be expended as agreed by the state board of land commissioners upon recommendations developed jointly by the department of lands and the Idaho forest products commission. Such efforts may include signs or other appropriate means designed to help build public understanding of reforestation or the management and conservation of forest resources on public and private lands in Idaho. [I.C., § 49-417A, as added by 1995, ch. 186, § 1, p. 674; am. 1997, ch. 134, § 1, p. 401; am. 1998, ch. 113, § 14, p. 418; am. 1999, ch. 315, § 3, p. 782; am. 2000, ch. 87, § 18, p. 188.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.	Idaho forest products commission, § 38-150 et seq.
State board of land commissioners, § 58-101 et seq.	Duties of director of department of lands, § 38-102.

49-417B. Idaho agriculture plates. — (1) On and after January 1, 2000, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for Idaho agriculture plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho agriculture plates for other vehicles may be authorized by rule of the board.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of the administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the ag in the classroom account created by the provisions of section 57-815, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates after receipt of new registration from the department.

(4) The Idaho agriculture license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features Idaho agriculture shall be acceptable to the Food Producers of Idaho, Inc. and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid from the ag in the classroom account.

(5) Sample Idaho agriculture plates may be purchased from the department for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the ag in the classroom account. [I.C., § 49-417B, as added by 1999, ch. 374, § 2, p. 1021; am. 2000, ch. 87, § 19, p. 188; am. 2000, ch. 200, § 2, p. 491; am. 2001, ch. 73, § 7, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — This section was amended by two 2000 acts — ch. 87, § 19 and ch. 200, § 2 — both effective July 1, 2000, which do not conflict and have been compiled together.

The 2000 amendment, by ch. 87, § 19, in subsection (1), substituted “twenty-six thousand (26,000) pounds” for “sixteen thousand (16,000) pounds”.

The 2000 amendment, by ch. 200, § 2, in subsection (2), in the second sentence, substi-

tuted “Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee” for “Twenty-five dollars (\$25.00) of the initial fee and fifteen dollars (\$15.00) of the renewal fee”; in the third sentence, substituted “Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee” for “Ten dollars (\$10.00) of each initial fee and ten dollars (\$10.00) of each renewal fee”.

Effective Dates. — Section 6 of S.L. 2000, ch. 200 provided that this section shall be in full force and effect on and after July 1, 2000.

49-417C. Famous potatoes license plates. — (1) On and after January 1, 2001, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special famous potatoes license plates in lieu of regular license plates. Availability of famous potatoes license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the Idaho potato commission created in chapter 12, title 22, Idaho Code, and shall be used exclusively for the purposes described in subsection (17) of section 22-1207, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The famous potatoes license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The distinguishing feature of the license plate shall be a representation of a prepared Idaho potato with a melting pat of butter. The design and any slogan on the plate shall be acceptable to the Idaho potato commission and shall be

approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho potato commission.

(5) Sample famous potatoes license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho potato commission. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-417C, as added by 2000, ch. 193, § 2, p. 476; am. 2004, ch. 188, § 6, p. 582.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Effective Dates. — Section 3 of S.L. 2000, ch. 193 provides that this act shall be in full

force and effect on and after January 1, 2001.

Section 7 of S.L. 2004, ch. 188 declared an emergency. Approved March 23, 2004.

49-417D. Idaho rangeland plates. [Effective January 1, 2009.] —

(1) On and after January 1, 2009, any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for Idaho rangeland plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho rangeland plates for other vehicles may be authorized by rule of the board.

(2) In addition to the regular registration fee, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of the administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to an Idaho rangeland resource commission account provided in section 58-1415, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates after receipt of new registration from the department.

(4) The Idaho rangeland license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features Idaho rangelands shall be acceptable to the Idaho rangeland resource commission and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid from the Idaho rangeland resource commission account.

(5) Sample Idaho rangeland plates may be purchased from the department for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of

which shall be transferred to the Idaho rangeland resource commission account. [I.C., § 49-417D, as added by 2008, ch. 150, § 2, p. 437.]

STATUTORY NOTES

Effective Dates. — Section 3 of S.L. 2008, ch. 150 provided that the act should take effect on and after January 1, 2009.

49-417E. Natural resources and mining education plates. [Effective January 1, 2009.] — (1) On and after January 1, 2009, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive natural resources and mining education license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of natural resources and mining education license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the natural resource education outreach (NREO) nonprofit collaborative network in Wallace, Idaho, and shall be used to provide classes for kindergarten through grade 12 educators to promote understanding about the mining industry and other natural resources industries.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The natural resources and mining education license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the NREO and shall be approved by the transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the NREO.

(5) Sample natural resources and mining education license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred for deposit to the natural resource education outreach (NREO) nonprofit collaborative network in Wallace, Idaho, and

shall be used to provide classes for kindergarten through grade 12 educators to promote understanding about the mining industry and other natural resources industries. [I.C., § 49-417E, as added by 2008, ch. 210, § 2, p. 666.]

STATUTORY NOTES

Effective Dates. — Section 3 of S.L. 2008, ch. 210 provided that the act should take effect on and after January 1, 2009.

49-418. Veterans plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for and upon department approval receive special veterans license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of veterans plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) Proof of being a current or former member of the United States armed forces must be furnished to the department before special veterans plates will be issued. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs.

(3) In addition to the regular registration fees required in section 49-402(1) or 49-434(1), Idaho Code, the applicant shall pay the initial program fee of twenty-five dollars (\$25.00) and the annual program fee of fifteen dollars (\$15.00) as specified in section 49-402, Idaho Code, and the plate fee specified in section 49-450, Idaho Code. Ten dollars (\$10.00) of the initial program fee and ten dollars (\$10.00) of the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Fifteen dollars (\$15.00) of the initial program fee and five dollars (\$5.00) of the annual program fee shall be deposited to the veterans cemetery maintenance fund created in section 65-107, Idaho Code, and shall be used to operate and maintain a state veterans cemetery.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) The veterans license plate design shall include the colors red, white and blue, shall designate one (1) of the five (5) branches of military service, and display either:

(a) The word "VETERAN"; or

(b) The name of a conflict or war period recognized by the United States department of veterans affairs for the purpose of awarding federal veterans benefits as defined in 38 U.S.C. 101(11).

The license plate design shall comply with all applicable rules of the department, and shall include a separate and distinct numbering system.

The design, color, and numbering system shall be subject to approval of the department.

(6) Veterans license plates may be retained and displayed on vehicles owned by the surviving spouse of a qualified veteran. In addition, the surviving spouse of a deceased qualified veteran is eligible to reapply for and shall be issued veterans license plates if the deceased qualified veteran died on or after January 1 of the five (5) years preceding the date of reapplication for the plates. Such plates shall be used on a vehicle owned by the surviving spouse. [I.C., § 49-418, as added by 1996, ch. 413, § 1, p. 1375; am. 1998, ch. 113, § 15, p. 418; am. 1999, ch. 316, § 9, p. 790; am. 2000, ch. 37, § 5, p. 66; am. 2000, ch. 87, § 20, p. 188; am. 2000, ch. 464, § 1, p. 1437.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — This section was amended by three 2000 acts — ch. 37, § 5, effective March 9, 2000, ch. 87, § 20 and ch. 464, § 1, both effective July 1, 2000 — which do not conflict and have been compiled together.

The 2000 amendment, by ch. 37, § 5, added subsection (6).

The 2000 amendment, by ch. 87, § 20, in subsection (1), substituted “twenty-six (26,000) pounds” for “sixteen thousand (16,000) pounds”.

The 2000 amendment, by ch. 464, § 1, in subsection (3), in the first sentence, inserted “of twenty-five dollars (\$25.00)” preceding “and the annual program fee” and inserted “of fifteen (\$15.00) as” preceding “specified in”; and added the second and third sentences.

Compiler's Notes. — Former § 49-418 was amended and redesignated as § 49-516 by § 131 of S.L. 1988, ch. 265.

Effective Dates. — Section 2 of S.L. 1996, ch. 413 provided that the act shall be in full force and effect on January 1, 1997.

Section 6 of S.L. 2000, ch. 37 declared an emergency. Approved March 9, 2000.

49-418A. Idaho college and university plates. — (1) Any person who is the owner of a vehicle registered under the provisions of section 49-402 or 49-434(1), Idaho Code, may apply for special plates featuring one (1) of Idaho's colleges or universities. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho college and university special license plates for other vehicles may be authorized by rule of the board.

(2) In addition to the regular operating fee, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account to be used by the department to fund highway, road and bridge construction projects and to fund the cost of administration of this special license plate program. The department shall transfer twenty-five dollars (\$25.00) of the initial fee and fifteen dollars (\$15.00) of the renewal fee for deposit to the institution designated on the license plate.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates after receipt of new registration from the department.

(4) All special college and university plates shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background and shall indicate the participating institution.

(a) The standard red, white and blue graphic shall be used, except that the word "Idaho" and "Famous Potatoes" shall appear on every plate, the identification of county shall be omitted, and the inscription "Scenic Idaho" may be omitted.

(b) Each college or university that chooses to participate in this program shall provide that portion of the design which features the particular institution and such design shall be acceptable to the president of the institution. For public colleges and universities, approval of the state board of education and board of regents of the university of Idaho shall also be required.

Each version of the special college and university plate featuring the participating college or university shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of plate design, shall be paid by the participating college or university.

(5) The state board of education and board of regents of the university of Idaho shall adopt rules to account for receipt and distribution of revenues accruing to participating public colleges and universities from the special license plate program. Revenues from the special plate program shall be used to:

(a) Fund scholarships for Idaho residents attending that college or university.

(b) Match funds contributed in equal amounts from nonstate sources for academic programs, provided that such expenditures for public colleges and universities shall be subject to prior approval by the state board of education and board of regents of the university of Idaho.

(6) For the purposes of this section, nonpublic colleges and universities shall mean and are limited to: The College of Idaho located in Caldwell, Idaho; Northwest Nazarene University located in Nampa, Idaho; and Brigham Young University-Idaho located in Rexburg, Idaho.

(7) Sample college and university license plates may be purchased from the department for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be retained by the department for deposit to the state highway account and twenty dollars (\$20.00) of which shall be transferred by the department to the college or university designated on the license plate. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-418A, as added by 1997, ch. 277, § 1, p. 823; am. 1998, ch. 113, § 16, p. 418; am. 1999, ch. 315, § 4, p. 782; am. 2000, ch. 87, § 21, p. 188; am. 2005, ch. 61, § 1, p. 218; am. 2008, ch. 13, § 1, p. 17.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — The 2008 amendment,

by ch. 13, in subsection (6), substituted "The College of Idaho" for "Albertson College of Idaho"; and in subsection (7), inserted "of

which" following "(\$20.00)."

Effective Dates. — Section 17 of S.L. 1998, ch. 113 provided this act shall be in full

force and effect on and after January 1, 1999. Section 3 of S.L. 2008, ch. 13 declared an emergency. Approved February 13, 2008.

49-418B. Idaho youth plates. — (1) On or after January 1, 2000, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive special Idaho youth license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho youth plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of the administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the county assessor's motor vehicle registration division of each county into the youth programs fund of the sheriff of that county, for use in implementation of prevention and early intervention programs for Idaho's at-risk youth including, but not limited to: (a) providing mentoring programs, (b) creating safe places and structured activities in nonschool hours, (c) fostering good health, (d) developing effective education opportunities for marketable career skills, and (e) providing an opportunity for youth to give back to their community.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho youth license plate shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans, acceptable to the Idaho association of counties, to be added to the plate. The design shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho association of counties.

(5) Sample Idaho youth license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be deposited in the sheriff's youth program fund of the county where the plate was purchased for the implementation of youth programs for at-risk youth. No additional fee shall be charged for personalizing sample plates. [I.C.,

§ 49-418B, as added by 1999, ch. 77, § 1, p. 220; am. 2000, ch. 87, § 22, p. 188; am. 2000, ch. 200, § 3, p. 491; am. 2001, ch. 73, § 8, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — This section was amended by two 2000 acts — ch. 87, § 22 and ch. 200, § 3 — both effective July 1, 2000, which do not conflict and have been compiled together.

The 2000 amendment, by ch. 87, § 22, in subsection (1) added the second sentence.

The 2000 amendment, by ch. 200, § 3, in subsection (2), in the second sentence substituted “Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway ac-

count” for “Twenty-five dollars (\$25.00) of the initial fee and fifteen dollars (\$15.00) of the renewal fee shall be deposited in the state highway account” and in the third sentence, substituted “Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred” for “Ten dollars (\$10.00) of each initial fee and ten dollars (\$10.00) of each renewal fee shall be transferred”.

Effective Dates. — Section 6 of S.L. 2000, ch. 200 provided that this section shall be in full force and effect on and after July 1, 2000.

49-418C. Firefighters license plates. — (1) On and after January 1, 2001, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special firefighters license plates in lieu of regular license plates. Availability of firefighters license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the Idaho fire chiefs association in Boise, Idaho, and shall be used exclusively for the fire safety education of firefighters, fire chiefs and the general public.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The firefighters license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The distinguishing feature of the license plate shall be a representation of firefighters in action. The design and any slogan on the plate shall be acceptable to the Idaho fire chiefs association and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho fire chiefs association.

(5) Sample firefighters license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho fire chiefs association. No additional fee shall be charged for personalizing sample plates. [I.C.; § 49-418C, as added by 2000, ch. 50, § 2, p. 95.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

ch. 50 provides that this act shall be in full force and effect on and after January 1, 2001.

Effective Dates. — Section 3 of S.L. 2000,

49-418D. Military veteran motorcycle license plate. — (1) On and after January 1, 2006, any person who is the owner of a motorcycle registered under the provisions of section 49-402, Idaho Code, may apply for and upon department approval receive a military veteran motorcycle license plate in lieu of a regular motorcycle license plate.

(2) Proof of being a current or former member of the United States armed forces must be furnished to the department before a military veteran motorcycle plate will be issued. Acceptable proof shall be a copy of form DD214 or an equivalent document or statement from the department of veterans affairs.

(3) In addition to the annual registration fee required in section 49-402(3), Idaho Code, the applicant shall be charged a fee of twenty-five dollars (\$25.00) for the initial issuance of a plate, and fifteen dollars (\$15.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial program fee and ten dollars (\$10.00) of the annual program fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special motorcycle license plate program. Fifteen dollars (\$15.00) of the initial program fee and five dollars (\$5.00) of the annual program fee shall be deposited to the veterans cemetery maintenance fund created in section 65-107, Idaho Code, to operate and maintain a state veterans cemetery.

(4) Whenever title or interest in a motorcycle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plate to another motorcycle upon payment of the required transfer fees. The owner may only display the plate on another motorcycle upon receipt of the new registration from the department.

(5) The military veteran motorcycle license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. In addition, there shall be no decals to indicate the veteran's branch of service or the period of duty served; the plate shall display the words "Scenic Idaho" at the top and "Veteran" at the bottom of the plate; and the license plate design shall be approved by the department and any portion of the design which represents veterans shall be acceptable to the administrator of the Idaho division of veterans services and a unique numbering system shall be utilized by the department. [I.C., § 49-418D, as added by 2004, ch. 78, § 2, p. 300; am. 2006, ch. 120, § 1, p. 337.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Division of veterans services, § 65-201 et seq.

Amendments. — The 2006 amendment, by ch. 120, substituted “2006” for “2005” in subsection (1); deleted the (a) to (d) designations in subsection (5); in present subsection (5), substituted “In addition” for “except that”, deleted “comply with all applicable rules of the department, and shall include a separate and distinct numbering system; and” following “design shall”; and substituted “be approved by the department and any portion of

the design which represents veterans shall be acceptable to the administrator of the Idaho division of veterans services and a unique numbering system shall be utilized by the department” for “The design, color, and numbering system shall be subject to approval of the department.”

Effective Dates. — Section 3 of S.L. 2004, ch. 78 provided that the act should take effect on and after January 1, 2005.

Section 2 of S.L. 2006, ch. 120 declared an emergency retroactively to January 1, 2006 and approved March 22, 2006.

49-418E. Idaho elks rehabilitation hospital plates. — (1) On and after January 1, 2007, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho elks rehabilitation hospital license plates, which shall be referred to as “Idaho elks” plates, in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho elks license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Idaho elks rehabilitation hospital located in Boise, Idaho, and shall be used by the hospital in providing rehabilitative programs and services in specialized areas including pediatrics, brain injury, stroke, hearing and balance, the wound clinic, and physical, speech and occupational therapies.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho elks license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the governing board of the Idaho elks rehabilitation hospital and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho elks rehabilitation hospital.

(5) Sample Idaho elks license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho elks rehabilitation hospital located in Boise, Idaho, and shall be used by the hospital in providing rehabilitative programs and services in specialized areas including pediatrics, brain injury, stroke, hearing and balance, the wound clinic, and physical, speech and occupational therapies. [I.C., § 49-418E, as added by 2006, ch. 118, § 2, p. 331.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

ch. 118 provided that the act should take effect January 1, 2007.

Effective Dates. — Section 3 of S.L. 2006,

49-419. Idaho snowskier plates. — (1) On and after January 1, 1999, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive special Idaho snowskier license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho snowskier license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer in the division of tourism [and promotion] fund within the department of commerce for use in general promotion of Idaho's ski industry.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho snowskier license plate shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans, acceptable to the Idaho ski areas association, to be added to the plate. The design shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho ski areas association.

(5) Sample Idaho snowskier license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be deposited in the division of tourism fund within the department of commerce for use in general promotion of Idaho's ski industry. Any moneys expended by the department of commerce for promotion of Idaho's ski industry shall be done in consultation with the Idaho ski area association. No additional fee shall be charged for personalizing sample plates. [1927, ch. 244, § 11, p. 374; I.C.A., § 48-111; am. 1955, ch. 71, § 3, p. 138; am. 1998, ch. 129, § 2, p. 481; am. 1999, ch. 315, § 5, p. 782; am. 2000, ch. 87, § 23, p. 188; am. 2002, ch. 180, § 1, p. 526.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — Former § 49-419 was amended and redesignated as § 49-421 by § 1 of S.L. 1998, ch. 129, effective January 1, 1999.

Former § 49-111 was amended and redesignated by § 85 of S.L. 1988, ch. 265, to become this section.

A former § 49-419 was amended and reded-

ignated as § 49-517 by § 132 of S.L. 1988, ch. 265.

The reference to the division of tourism fund, near the end of subsection (2), should be to the tourism and promotion fund within the department of commerce.

Effective Dates. — Section 3 of S.L. 1998, ch. 129 provided this act shall be in full force and effect on and after January 1, 1999.

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 221.

49-419A. Idaho sawtooth national recreation area plates. —

(1) On and after January 1, 2000, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive Idaho sawtooth national recreation area license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho sawtooth national recreation area plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fees required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of the plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer in the park and recreation fund established in section 67-4225, Idaho Code, for use in the maintenance of parks and facilities. This fee shall be treated as a contribution to the outdoor recreation program and shall not be considered a motor vehicle registration

fee as described in section 17, article VII, of the constitution of the state of Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho sawtooth national recreation area license plate design shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features the Idaho sawtooth national recreation area shall be acceptable to the sawtooth society and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including the cost of the plate design, shall be paid by the sawtooth society.

(5) Sample Idaho sawtooth national recreation area plates may be purchased from the department for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be deposited by the state treasurer in the park and recreation fund for use in the maintenance of parks and facilities. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-419A, as added by 1999, ch. 365, § 2, p. 963; am. 2000, ch. 87, § 24, p. 188; am. 2000, ch. 200, § 4, p. 491; am. 2001, ch. 73, § 9, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — This section was amended by two 2000 acts — ch. 87, § 24 and ch. 200, § 4 — both effective July 1, 2000, which do not conflict and have been compiled together.

The 2000 amendment, by ch. 87, § 24, in subsection (1), substituted “over twenty-six thousand pounds” for “over sixteen thousand pounds”.

The 2000 amendment, by ch. 200, § 4, in the second sentence of subsection (2), substituted “Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee

shall be deposited in the state highway account” for “Twenty-five dollars (\$25.00) of the initial fee and fifteen dollars (\$15.00) of the renewal fee shall be deposited in the state highway account”, and in the third sentence, substituted “Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer” for “Ten dollars (\$10.00) of each initial fee and ten dollars (\$10.00) of each renewal fee shall be deposited by the state treasurer”.

Effective Dates. — Section 6 of S.L. 2000, ch. 200 provided that this section shall be in full force and effect on and after July 1, 2000.

49-419B. Idaho motorcycle safety program plates. — (1) On and after January 1, 2004, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho motorcycle safety program license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho motorcycle safety program license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the Idaho motorcycle safety program fund established in section 33-4904, Idaho Code, and shall be used exclusively for the purposes described in chapter 49, title 33, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho motorcycle safety program license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features the Idaho motorcycle safety program shall be acceptable to the motorcycle safety program advisory committee. The design shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho motorcycle safety program.

(5) Sample Idaho motorcycle safety program license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho motorcycle safety program fund. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-419B, as added by 2003, ch. 43, § 2, p. 164.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

ch. 43 provided that the act should take effect on and after January 1, 2004.

Effective Dates. — Section 3 of S.L. 2003,

49-419C. Idaho white water rafting plates. — (1) On and after January 1, 2004, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho white water rafting license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho white water rafting license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars

(\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the tourism and promotion fund of the department of commerce, and shall be used by the department of commerce for the general education and promotion of Idaho's white water rivers and the rafting and kayaking industries. The department of commerce shall confer with the consulting panel representing white water river communities and the rafting and kayaking industries before expending any moneys from the fund that were received into the fund from revenue derived from this special license plate program.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho white water rafting license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The design and any slogan on the plate shall be acceptable to the department of commerce and the consulting panel representing Idaho's white water river communities and the rafting and kayaking industries, and shall be approved by the Idaho transportation department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the department of commerce. Not more than fifteen percent (15%) of all revenues made available to the department of commerce from the sale and renewal of Idaho white water rafting license plates shall be used by the department of commerce to pay for the costs of the plate design and for those administrative expenses necessarily incurred by operation of the general education and promotion program.

(5) Sample Idaho white water rafting license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the tourism and promotion fund of the department of commerce and shall be used for the general education and promotion of Idaho's white water rivers and the rafting and kayaking industries. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-419C, as added by 2003, ch. 242, § 2, p. 624.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Effective Dates. — Section 3 of S.L. 2003,

ch. 242 provided that the act should take effect on and after January 1, 2004.

49-419D. Idaho school transportation safety awareness plates. —

(1) On and after January 1, 2005, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive Idaho school transportation safety awareness license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds, with the exception of school buses registered in Idaho and operated exclusively intrastate. Availability of Idaho school transportation safety awareness license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the pupil transportation support program fund created in section 33-1513, Idaho Code, and shall be used for educational programs promoting school transportation safety and awareness, and to help defray costs associated with the implementation, administration and oversight of the statewide pupil transportation support program.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho school transportation safety awareness plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The distinguishing feature of the license plate shall include a representation of a yellow school bus. The design and any slogan on the plate shall be acceptable to the state department of education. Initial costs of the plate program, including costs of plate design, shall be paid by the state department of education.

(5) Sample Idaho school transportation safety awareness license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the pupil transportation support program fund created in section 33-1513, Idaho Code. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-419D, as added by 2004, ch. 301, § 4, p. 841.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

ch. 301 provided that the act should take effect on and after January 1, 2005.

Effective Dates. — Section 5 of S.L. 2004,

49-420. Idaho snowmobile plates. — (1) On and after January 1, 1999, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive special Idaho snowmobile license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho snowmobile license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer in the Idaho department of parks and recreation state snowmobile account established pursuant to section 67-7106, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho snowmobile license plate shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans, acceptable to the Idaho state snowmobile association, to be added to the plate. The design shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho state snowmobile association.

(5) Sample Idaho snowmobile license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be deposited in the state snowmobile account within the department of parks and recreation. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-420, as added by 1998, ch. 260, § 1, p. 862; am. 1999, ch. 315, § 6, p. 782; am. 2000, ch. 87, § 25, p. 188.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — Former § 49-420 was amended and redesignated as § 49-518

by S.L. 1988, ch. 265, § 133.

Effective Dates. — Section 2 of S.L. 1998, ch. 260 provided this act shall be in full force and effect on and after January 1, 1999.

49-420A. Idaho state capitol commission plates. — (1) On and after January 1, 2002, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Idaho state capitol commission plates in lieu of regular license plates.

(2) The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho state capitol commission plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(3) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the state treasurer in the Idaho capitol endowment income fund established in section 67-1611, Idaho Code, and shall be used exclusively for the purposes of chapter 16, title 67, Idaho Code.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) Notwithstanding the provisions of section 49-402C, Idaho Code, the Idaho state capitol commission license plate shall be of a color and design acceptable to the Idaho state capitol commission, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans. The design shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho state capitol commission.

(6) Sample Idaho state capitol commission license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be deposited in the Idaho capitol endowment income fund. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-420A, as added by 2001, ch. 281, § 2, p. 1010; am. 2005, ch. 309, § 1, p. 960; am. 2008, ch. 14, § 1, p. 20.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — The 2008 amendment, by ch. 14, in subsection (1), deleted “and through December 31, 2012” following “January 1, 2002”, and deleted the last sentence which read: “On and after January 1, 2013, the department shall not issue new plates

pursuant to this section nor shall it renew any plates previously issued under this section, the provisions of section 49-443, Idaho Code, relating to time period for validity of plates, notwithstanding.”

Effective Dates. — Section 3 of S.L. 2001, ch. 281 provided that the act should take effect on and after January 1, 2002.

49-420B. Lewis and Clark commemorative plates. — (1) On and after January 1, 2001, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special Lewis and Clark commemorative plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Lewis and Clark commemorative plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the governor’s Idaho Lewis and Clark trail committee fund created in section 67-8601, Idaho Code, and shall be used exclusively for the purposes described in section 67-8601, Idaho Code.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Lewis and Clark commemorative license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features Lewis and Clark and other commemorative aspects of their trail and journeys shall be acceptable to the governor’s Lewis and Clark advisory board, and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid from the Lewis and Clark trail committee fund.

(5) Sample Lewis and Clark commemorative license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the governor’s Idaho Lewis and Clark trail committee fund. No additional fee shall be charged for personalizing sample

plates. [I.C., § 49-420B, as added by 2000, ch. 200, § 5, p. 491; am. 2001, ch. 73, § 10, p. 154.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702. ch. 200, provides that Section 5 of this act shall be in full force and effect on and after

Effective Dates. — Section 6 of S.L. 2000, January 1, 2001.

49-420C. Peace officer memorial plates. — (1) On and after January 1, 2003, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and, upon department approval, receive special peace officer memorial license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of peace officer memorial license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the Idaho peace officers memorial fund in the Idaho community foundation, and shall be used exclusively for the Idaho law enforcement memorial and families of peace officers killed in the line of duty.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The peace officer memorial license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. The distinguishing feature of the license plate shall be a representation of the Idaho peace officer memorial logo. The design and any slogan on the plate shall be acceptable to the Idaho peace officer memorial board, and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Idaho police chiefs association.

(5) Sample peace officer memorial license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Idaho peace officers memorial fund in the Idaho community foundation. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-420C, as added by 2002, ch. 285, § 3, p. 829.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — S.L. 2002, ch. 226 § 2, ch. 254, § 2, and ch. 285, § 3, each effective January 1, 2003, purported to enact a new section of chapter 4, title 49, Idaho Code, designated as § 49-420C. Section 49-420C, as enacted by ch. 226, § 2, was compiled as § [49-420E] 49-420C and was subsequently redesignated as § 49-420E, Section

49-420c, as enacted by S.L. 2002, ch. 254, § 2, was compiled as § [49-420D] 49-420C and was subsequently redesignated as 49-420D. S.L. 2002, ch. 285, § 3 was compiled as § 49-420C.

Effective Dates. — Section 4 of S.L. 2002, ch. 285 read: "Section 2 of this act shall be in full force and effect on and after July 1, 2002; and sections 1 and 3 of this act shall be in full force and effect on and after January 1, 2003."

49-420D. Appaloosa license plates. — (1) On and after January 1, 2003, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other provision of law for which the purchase of a special license plate is allowed, may apply for and, upon department approval, receive special Appaloosa license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over sixteen thousand (16,000) pounds. Availability of Appaloosa license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer for deposit to the Appaloosa horse club, and shall be used exclusively for the purpose of funding youth horse programs within the state of Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Appaloosa license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features an Appaloosa shall be acceptable to the Appaloosa horse club, and shall be approved by the department utilizing a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the Appaloosa horse club.

(5) Sample Appaloosa license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be transferred to the Appaloosa horse club. No additional fee shall be charged for personalizing sample plates. [I.C., § [49-420D] 49-420C, as added by 2002, ch. 254, § 2, p. 730; am. 2003, ch. 16, § 12, p. 48.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — S.L. 2002, ch. 226 § 2, ch. 254, § 2, and ch. 285, § 3, each effective January 1, 2003, purported to enact a new section of chapter 4, title 49, Idaho Code, designated as § 49-420C. Section 49-420C, as enacted by ch. 226, § 2, was compiled as § [49-420E] 49-420C and was subsequently redesignated as § 49-420E, Section

49-420c, as enacted by S.L. 2002, ch. 254, § 2, was compiled as § [49-420D] 49-420C and was subsequently redesignated as 49-420D. S.L. 2002, ch. 285, § 3 was compiled as § 49-420C.

Effective Dates. — Section 3 of S.L. 2002, ch. 254 provided that the act should take effect on and after January 1, 2003.

Section 18 of S.L. 2003, ch. 16 declared an emergency. Approved February 12, 2003.

49-420E. Idaho corvette plates. — (1) On and after January 1, 2003, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for and upon department approval receive special Idaho corvette license plates in lieu of regular license plates.

(2) The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho corvette license plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(3) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates, and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be transferred by the state treasurer to the valley corvettes charitable support fund, and shall be used exclusively for the purpose of supporting charitable activities within the state of Idaho.

(4) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(5) The Idaho corvette license plate shall be of a color and design comparable to the standard issue of license plates with blue numerals on a red, white and blue background, except that the word "Idaho" shall appear on each plate and the county designator shall be omitted to provide for distinguishing designs and slogans, acceptable to the valley corvettes of Idaho, to be added to the plate. The design shall be approved by the department and shall utilize a numbering system as determined by the department. Initial costs of the plate program, including costs of plate design, shall be paid by the valley corvettes of Idaho.

(6) Sample Idaho corvette license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be

transferred to the valley corvettes charitable support fund. Initial costs of the plate program, including costs of plate design, shall be paid by the valley corvettes charitable support fund. [I.C., § [49-420E] 49-420C, as added by 2002, ch. 226, § 2, p. 651; am. 2003, ch. 16, § 13, p. 48.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — S.L. 2002, ch. 226 § 2, ch. 254, § 2, and ch. 285, § 3, each effective January 1, 2003, purported to enact a new section of chapter 4, title 49, Idaho Code, designated as § 49-420C. Section 49-420C, as enacted by ch. 226, § 2, was compiled as § [49-420E] 49-420C and was subsequently redesignated as § 49-420E, Section

49-420c, as enacted by S.L. 2002, ch. 254, § 2, was compiled as § [49-420D] 49-420C and was subsequently redesignated as 49-420D. S.L. 2002, ch. 285, § 3 was compiled as § 49-420C.

Effective Dates. — Section 3 of S.L. 2002, ch. 226 provided that the act should take effect on and after January 1, 2003.

Section 18 of S.L. 2003, ch. 16 declared an emergency. Approved February 12, 2003.

49-420G. Idaho boy scout plates. — (1) On and after January 1, 2004, any person who is the owner of a vehicle registered under the provisions of section 49-402, Idaho Code, or registered under any other section of law for which the purchase of special plates is allowed, may apply for, and upon department approval, receive special Idaho boy scout license plates in lieu of regular license plates. The provisions of this section shall not apply to any vehicle with a registered maximum gross weight over twenty-six thousand (26,000) pounds. Availability of Idaho boy scout plates for other vehicles shall be subject to the rules, policies and procedures of the department.

(2) In addition to the regular registration fee required in chapter 4, title 49, Idaho Code, the applicant shall be charged a fee of thirty-five dollars (\$35.00) for the initial issuance of plates and twenty-five dollars (\$25.00) upon each succeeding annual registration. Ten dollars (\$10.00) of the initial fee and ten dollars (\$10.00) of the renewal fee shall be deposited in the state highway account and shall be used to fund the cost of administration of this special license plate program. Twenty-five dollars (\$25.00) of each initial fee and fifteen dollars (\$15.00) of each renewal fee shall be deposited by the department to the respective boy scout council in which the selling county is located. Inland Northwest Council, Boy Scouts of America, contains the following counties: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone. Ore-Ida Council, Boy Scouts of America, contains the following counties: Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington. Snake River Council, Boy Scouts of America, contains the following counties: Blaine, Camas, Cassia, Custer, Gooding, Jerome, Lincoln, Minidoka and Twin Falls. Grand Teton Council, Boys Scouts of America, contains the following counties: Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power and Teton. Boy scout councils whose borders extend outside the state of Idaho are restricted to utilization of received funds totally within the state of Idaho.

(3) Whenever title or interest in a vehicle registered under the provisions of this section is transferred or assigned, the owner may transfer the special plates to another vehicle upon payment of the required transfer fees. The owner may only display the plates on another vehicle upon receipt of the new registration from the department.

(4) The Idaho boy scout license plate shall be of a color and design in accordance with the provisions of section 49-402C, Idaho Code. That portion of the design which features the Idaho boy scout program shall be acceptable to the Boy Scouts of America. The design shall be approved by the department, utilizing a numbering system as determined by the department. Initial costs of the plate program, including the costs of plate design shall be paid by the Boy Scouts of America.

(5) Sample boy scout license plates may be purchased for a fee of thirty dollars (\$30.00), ten dollars (\$10.00) of which shall be deposited in the state highway account and twenty dollars (\$20.00) of which shall be deposited by the department to the respective boy scout council in which the selling county is located as provided in subsection (2) of this section. Boy scout councils whose boundaries extend outside the state of Idaho are restricted to utilization of received funds totally within the state of Idaho. No additional fee shall be charged for personalizing sample plates. [I.C., § 49-420G, as added by 2003, ch. 45, § 1, p. 171.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702. ch. 45 provided that the act should take effect on and after January 1, 2004.

Effective Dates. — Section 3 of S.L. 2003,

49-421. Registration cards. — (1) Upon the registration of a vehicle, the registering agency shall issue to the owner, as defined in section 49-116(3), Idaho Code, a registration card which shall contain the date issued, the registration number assigned the owner and to the vehicle, the name and address of the owner, a description of the registered vehicle, identification number and any other information the department may require.

(2) The owner, upon receiving the registration card, shall sign in the space provided upon the card as proof of compliance with the insurance requirements of section 49-1229, Idaho Code.

(3) Upon a change of address the registrant shall report such change to the county assessor or the department within thirty (30) days following the change of address.

(4) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (3) of this section. [1927, ch. 244, § 11, p. 374; I.C.A., § 48-111; am. 1955, ch. 71, § 3, p. 138; am. and redesign. 1988, ch. 265, § 85, p. 549; am. 1992, ch. 35, § 14, p. 99; am. and redesign. 1998, ch. 129, § 1, p. 481; am. 2000, ch. 304, § 2, p. 1035.]

STATUTORY NOTES

Compiler's Notes. — Formerly, § 49-111 was amended and redesignated by § 85 of S.L. 1988, ch. 265 as § 49-419 and subsequently was amended and redesignated by S.L. 1998, ch. 129, § 1 to become this section. A former § 49-421 was amended and reded-

ignated as § 49-519 by § 134 of S.L. 1988, ch. 265.

Effective Dates. — Section 3 of S.L. 1998, ch. 129 provided this act shall be in full force and effect on and after January 1, 1999.

49-422. Registration fees — Manufactured homes and towed recreational vehicles. — (1) The fees for registering manufactured homes or towed recreational vehicles shall be four dollars (\$4.00). In addition to the registration fee, and as a prerequisite to registering there shall be an assessment levied on each manufactured home for ad valorem tax as provided in chapter 3, title 63, Idaho Code. An applicant for a manufactured home registration shall be required to exhibit the general property tax receipt for the year of registration before a license may be issued. An applicant for a towed recreational vehicle registration shall be required to obtain the recreational vehicle annual license as required in section 49-445, Idaho Code, in conjunction with the registration required in this section. It shall be unlawful for any manufactured home or towed recreational vehicle to be moved on any highway without first being registered. The registration fees collected as specified in this section shall be paid to the assessor of the county where the registration was purchased. Fifty percent (50%) of the registration fees shall be placed in the county current expense fund and the balance of the fees shall be deposited in the highway distribution account.

(2) The provisions of this section shall not apply to new manufactured homes being transported either prior to first sale at retail or to the initial setup location of the original purchaser. [I.C., § 49-143, as added by 1953, ch. 161, § 1, p. 256; am. 1959, ch. 292, § 1, p. 604; am. 1961, ch. 296, § 1, p. 528; am. 1975, ch. 148, § 1, p. 372; am. 1982, ch. 95, § 21, p. 185; am. 1984, ch. 195, § 18, p. 445; am. and redesi. 1988, ch. 265, § 86, p. 549; am. 1992, ch. 35, § 15, p. 99; am. 1996, ch. 322, § 46, p. 1029; am. 1999, ch. 170, § 1, p. 459.]

STATUTORY NOTES

Cross References. — Highway distribution account, § 40-701.

Compiler's Notes. — This section was formerly compiled as § 49-155 and was amended and redesignated by § 86 of S.L. 1988, ch. 265 to become this section.

Former § 49-422 was amended and redesignated as § 49-520 by § 135 of S.L. 1988, ch. 265.

Effective Dates. — Section 4 of S.L. 1999, ch. 170 declared an emergency. Approved March 23, 1999.

49-423, 49-424. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Section 49-423, which comprised 1927, ch. 214, § 9A, as amended by 1929, ch. 195, § 9, p. 362; I.C.A., § 48-410; am. 1982, ch. 95, § 72, p. 185, was

repealed by S.L. 1988, ch. 265, § 69, effective January 1, 1989.

Section 49-424, which comprised 1927, ch. 214, § 14, p. 298; I.C.A., § 48-415, was re-

pealed by S.L. 1974, ch. 27, § 1, effective July 1, 1974.

49-425. Lost certificate or license plate — Duplicates. — In the event that any license plate or registration card issued pursuant to the provisions of this chapter shall be lost, mutilated, or become illegible, the person to whom the plate or registration card is issued shall make immediate application for and obtain a duplicate or replacement upon furnishing information of fact satisfactory to the department and upon payment of the required fees. The fee for duplicate or replacement plates is provided in section 49-450 and section 49-202(2)(f), Idaho Code, for a replacement registration card. [1927, ch. 244, § 20, p. 374; I.C.A., § 48-121; am. and redesisg. 1988, ch. 265, § 87, p. 549; am. 1992, ch. 35, § 16, p. 99; am. 2000, ch. 320, § 4, p. 1078.]

STATUTORY NOTES

Prior Laws. — Former § 49-425, which comprised 1927, ch. 214, §§ 14, 15, p. 298; I.C.A., §§ 48-415, 48-416, was repealed by S.L. 1974, ch. 27, § 1, effective July 1, 1974.

Compiler's Notes. — This section was formerly compiled as 49-121 and was

amended and redesignated by § 87 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 6 of S.L. 2000, ch. 320 provides that this act shall be in full force and effect on and after January 1, 2001.

49-426. Exemptions from operating fees. — The provisions of this chapter with respect to operating fees shall not apply to:

(1) Motor vehicles owned or leased by the United States, the state, a city, a county, any department thereof, any political subdivision or municipal corporation of the state, any taxing district of the state, any state registered nonprofit subscription fire protection unit, or any organization, whether incorporated or unincorporated, organized for the operation, maintenance, or management of an irrigation project or irrigation works or system or for the purpose of furnishing water to its members or shareholders, but in other respects shall be applicable.

(2) Farm tractors, implements of husbandry, those manufactured homes which qualify for an exemption under the provisions of section 49-422, Idaho Code, road rollers, wheel mounted tar buckets, portable concrete and/or mortar mixers, wheel mounted compressors, tow dollies, portable toilet trailers, street sweepers, and similar devices as determined by the department which are temporarily operated or moved upon the highways need not be registered under the provisions of this chapter, nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code. In addition, self-propelled wheelchairs, three-wheeled bicycles, wheelchair conveyances, golf carts, lawn mowers, and scooters operated by persons who by reason of physical disability are otherwise unable to move about as pedestrians shall be exempt from registration requirements under the provisions of this chapter. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles need not be licensed under the provisions of this chapter or registered pursuant to the provisions of section 67-7122, Idaho Code, if they are being used exclusively in connection with agricultural, horticultural, dairy and

livestock growing and feeding operations or used exclusively for snow removal purposes. Travel upon the public highways shall be limited to travel between farm or ranch locations. Motorcycles, motorbikes, utility type vehicles and all-terrain vehicles used for this purpose shall meet the emblem requirements of section 49-619, Idaho Code.

(3) Any political subdivision of the state of Idaho may, but only after sufficient public notice is given and a public hearing held, adopt local ordinances designating highways or sections of highways under its jurisdiction which are closed to all-terrain vehicles, utility type vehicles and motorbikes licensed pursuant to this chapter and registered pursuant to section 67-7122, Idaho Code, and those vehicles exempt from licensing and registration pursuant to subsection (2) of this section. The operation of licensed and registered all-terrain vehicles, utility type vehicles and motorbikes and those vehicles exempt from licensing and registration pursuant to subsection (2) of this section shall not be permitted on controlled access highways. The requirements of title 18 and chapters 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of any licensed and registered all-terrain vehicle, utility type vehicle or motorbike or those vehicles exempt from licensing and registration pursuant to subsection (2) of this section upon highways that are not closed to such vehicles. Costs related to the posting of signs on highways or sections of highways that are closed to such vehicles, indicating the ordinance, are eligible for reimbursement through the motorbike recreation account created in section 67-7126, Idaho Code.

(4) The Idaho transportation board may designate sections of state highways over which all-terrain vehicles, utility type vehicles and motorbikes licensed pursuant to this chapter and registered pursuant to section 67-7122, Idaho Code, and those vehicles exempt from licensing and registration pursuant to subsection (2) of this section may cross. The requirements of title 18, and chapters 6, 8, 12, 13 and 14, title 49, Idaho Code, shall apply to the operation of licensed and registered all-terrain vehicles, utility type vehicles and motorbikes and those vehicles exempt from licensing and registration pursuant to subsection (2) of this section when using designated crossings on state highways.

(5) Subject to the licensing requirement provided for in section 49-402(4), Idaho Code, all-terrain vehicles, utility type vehicles and motorbikes may be used on unpaved highways located on state public lands or federal public lands which are not part of the highway system of the state of Idaho, provided the registration requirements of section 67-7122, Idaho Code, are met. [1927, ch. 244, §§ 8, 27, p. 374; I.C.A., § 48-108; I.C.A., § 48-129; am. 1951, ch. 119, § 13, p. 273; am. 1955, ch. 186, § 1, p. 408; am. 1961, ch. 115, § 1, p. 172; am. 1974, ch. 27, § 98, p. 811; am. 1974, ch. 203, § 1, p. 1523; am. 1977, ch. 66, § 1, p. 126; am. 1982, ch. 79, § 1, p. 147; am. 1982, ch. 95, § 14, p. 185; am. 1983, ch. 255, § 2, p. 674; am. 1987, ch. 194, § 1, p. 404; am. 1988, ch. 105, § 1, p. 193; am. and redesisg. 1988, ch. 265, § 88, p. 549; am. 1989, ch. 310, § 16, p. 769; am. 1992, ch. 35, § 17, p. 99; am. 1992, ch. 238, § 2, p. 707; am. 1992, ch. 268, § 2, p. 829; am. 1998, ch. 104, § 1, p. 361; am. 1998, ch. 272, § 1, p. 902; am. 1999, ch. 170, § 2, p. 459; am. 2000, ch. 315, § 3, p. 1059; am. 2005, ch. 70, § 2, p. 244; am. 2008, ch. 409, § 4, p. 1130.]

STATUTORY NOTES

Amendments. — This section was amended by two 1998 acts — ch. 104, § 1 and ch. 272, § 1 — both effective July 1, 1998, which do not appear to conflict and have been compiled together.

The 1998 amendment, by ch. 104, § 1, inserted “any state registered nonprofit subscription fire protection unit” following “any taxing district of the state” in subdivision (1).

The 1998 amendment, by ch. 272, § 1, in the first sentence of subdivision (2), substituted “three-wheeled bicycles” for “invalids’ tricycles and,” and in the second sentence of subdivision (2), inserted “golf carts, lawn mowers, and scooters” following “wheelchair conveyances.”

This section was amended by three 1992 acts — ch. 35, § 17, ch. 238, § 2 and ch. 268, § 2, all three of which are effective July 1, 1992 — which do not conflict and have been compiled together.

The 1992 amendment, by ch. 35, § 17, in subsection (2) in the first sentence substituted “wheel mounted tar buckets, portable concrete and/or mortar mixers, wheel mounted compressors, tow dollies, portable toilet trail-

ers, street sweepers, and similar devices as determined by the department which are” for “and road machinery” following “road rollers”.

The 1992 amendment, by ch. 238, § 2, in subsection (2) in the third sentence added “or used exclusively for snow removal purposes” following “feeding operations”.

The 1992 amendment, by ch. 268, § 2, in subsection (1) deleted “or to” following “any department thereof,”; in subsection (2) at the end of the first sentence added “nor shall implements of husbandry be considered towed units under registration of vehicle combinations as defined in section 49-108(2), Idaho Code”.

The 2008 amendment, by ch. 409, rewrote the section to the extent that a detailed comparison is impracticable.

Compiler’s Notes. — Section 88 of S.L. 1988, ch. 265 amended and redesignated §§ 49-108 and 49-134 to become this section.

Former § 49-426 was amended and redesignated as § 49-521 by § 136 of S.L. 1988, ch. 265.

Effective Dates. — Section 4 of S.L. 1999, ch. 170 declared an emergency. Approved March 23, 1999.

JUDICIAL DECISIONS

Cited in: State ex rel. Anderson v. Rayner, 60 Idaho 706, 96 P.2d 244 (1939).

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 245 et seq.

49-427. Registration card to be carried. — The registration card issued for a vehicle required to be registered by the provisions of this chapter shall, while the vehicle is being operated upon a highway, be in the possession of the operator or chauffeur or carried in the vehicle and be subject to inspection by any peace officer. [1927, ch. 244, § 12, p. 374; I.C.A., § 49-112; am. and redesign. 1988, ch. 265, § 89, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-427, which comprised 1927, ch. 214, § 19, p. 298; I.C.A., § 48-420, was repealed by S.L. 1988, ch. 265, § 69, effective January 1, 1989.

Compiler’s Notes. — This section was formerly compiled as § 49-112 and was amended and redesignated by § 89 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: State v. Martinez, 136 Idaho 436, 34 P.3d 1119 (Ct. App. 2001).

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 221 et seq.

A.L.R. — Validity, construction, and application of a statute regarding failure or refusal

to comply with demand upon operator of motor vehicle to display his license. 6 A.L.R.3d 506.

49-428. Display of plate and stickers. — (1) License plates assigned to a motor vehicle shall be attached, one (1) in the front and the other in the rear, with the exception of the following:

(a) The license plate assigned to a motorcycle, all-terrain vehicle, utility type vehicle, motorbike or semitrailer and the license plate assigned to a motor vehicle operated by a manufacturer, repossession agent or dealer shall be attached to the rear.

(b) Vehicles displaying year of manufacture, old timer, classic car or street rod license plates shall be allowed to display one (1) plate attached to the rear of the vehicle.

(c) The license plate attached to a tractor shall be attached to the front. License plates shall be displayed during the current registration year. The annual registration sticker for the current registration year shall be displayed on each license plate, except for trailers and semitrailers on extended registration under the provisions of section 49-434, Idaho Code. For the purposes of this title, the license plates together with the registration stickers shall be considered as license plates for the year designated on the registration sticker.

(2) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned to prevent the plate from swinging, be at a height not less than twelve (12) inches from the ground, measuring from the bottom of the plate, be in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible, and all registration stickers shall be securely attached to the license plates and shall be displayed as provided in section 49-443(4), Idaho Code. [1927, ch. 244, § 14, p. 374; I.C.A., § 48-114; am. 1957, ch. 7, § 1, p. 9; am. 1963, ch. 53, § 1, p. 218; am. 1967, ch. 428, § 3, p. 1245; am. and redesign. 1988, ch. 265, § 90, p. 549; am. 1990, ch. 391, § 3, p. 1092; am. 1992, ch. 35, § 18, p. 99; am. 1998, ch. 392, § 9, p. 1197; am. 2008, ch. 409, § 5, p. 1132.]

STATUTORY NOTES

Cross References. — Municipal registration prohibited, § 49-207.

Prior Laws. — Former § 49-428, which comprised 1927, ch. 214, § 20, p. 298; I.C.A., § 48-421, was repealed by S.L. 1988, ch. 265, § 69, effective January 1, 1989.

Amendments. — The 2008 amendment, by ch. 409, inserted “utility type vehicle, mo-

torbike” in paragraph (1)(a).

Compiler’s Notes. — This section was formerly compiled as § 49-114 and was amended and redesignated by § 90 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 6 of S.L. 1990, ch. 391 provided that the act should be in full force and effect on and after January 1, 1991.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 256.

C.J.S. — 60 C.J.S., Motor Vehicles, § 221.

49-429. Display of copy of application pending receipt of license plate. — When an owner chooses to display special license plates, upon payment of required fees the department or the assessor shall issue to the applicant a copy of the application. The copy must be displayed in a suitable place on the rear window of a motor vehicle, or if a motorcycle, displayed on the motorcycle. The copy shall constitute compliance with the provisions of this chapter until such time as the license plates are received from the department. The copy of the application shall not have any value as compliance with the provisions of this chapter from and after the receipt of the license plates from the department. [C.S., § 1609, as enacted by 1921, ch. 250, § 2, p. 544; I.C.A., § 48-115; am. 1953, ch. 261, § 5, p. 425; am. 1974, ch. 27, § 90, p. 811, am. 1982, ch. 95, § 7, p. 185; am. and redesign. 1988, ch. 265, § 91, p. 549; am. 1998, ch. 392, § 10, p. 1197.]

STATUTORY NOTES

Prior Laws. — Former § 49-429, which comprised 1927, ch. 214, § 22, p. 298; I.C.A., § 48-423; am. 1941, ch. 144, § 4, p. 282, was repealed by S.L. 1988, ch. 265, § 69, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-115 and was amended and redesignated by § 91 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 254 et seq.

49-430. Registration to be renewed. — (1) Reregistration of vehicles shall be accomplished annually or by registration period in the same manner as the original registration and upon the payment of the required fee. The director may extend this date as to individuals, counties or the state for not to exceed forty-five (45) days for good cause shown.

(2) A violation of the provisions of this section shall be an infraction. [1927, ch. 244, § 15, p. 374; am. 1931, ch. 5, § 1, p. 10; I.C.A., § 48-116; am. 1951, ch. 38, § 1, p. 49; am. 1951, ch. 119, § 6, p. 273; am. 1953, ch. 261, § 6, p. 425; am. 1967, ch. 175, § 4, p. 583; am. 1969, ch. 70, § 2, p. 214; am. 1974, ch. 27, § 91, p. 811; am. 1988, ch. 250, § 1, p. 483; am. and redesign. 1988, ch. 265, § 92, p. 549; am. 1989, ch. 310, § 17, p. 769.]

STATUTORY NOTES

Prior Laws. — Former § 49-430, which comprised 1927, ch. 214, § 23, p. 298; I.C.A., § 48-424, was repealed by S.L. 1988, ch. 265, § 69, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-116 and was amended and redesignated by § 92 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Validity of Law.

The laws requiring an operator of a motor vehicle to carry proof of liability insurance in his motor vehicle and to register the motor

vehicle annually are valid laws enacted by the state. *State v. Gibson*, 108 Idaho 202, 697 P.2d 1216 (Ct. App. 1985).

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 241.

49-431. Assignment or transfer of interest — Procedure. —

(1) Whenever the owner of a vehicle registered under the provisions of sections 49-402 and 49-402A, Idaho Code, transfers or assigns his title or interest thereto, the registration card and license plate shall remain with and in the possession of the transferor, and before the license plate shall be displayed upon another vehicle owned by the transferor, the transferor shall have that vehicle registered as provided for in section 49-401A, Idaho Code. The transfer fees collected shall be paid to the county treasurer where the vehicle is registered and deposited in the county current expense fund or in the state highway account if the transfer is made by the department.

(a) For all vehicles registered under the provisions of section 49-402(1), Idaho Code, the transferor shall pay the registration fee as specified in that subsection less the registration fee already paid, plus a transfer fee of five dollars (\$5.00). If the transferor shall have an older vehicle to be registered, the transferor shall pay a transfer fee of five dollars (\$5.00).

(b) For vehicles registered in accordance with subsections (2) through (4) of section 49-402, Idaho Code, the operating fee shall be the fee specified in those subsections, plus a transfer fee of five dollars (\$5.00).

(c) For utility trailers registered under the provisions of section 49-402A, Idaho Code, the original registration shall continue until its expiration date, upon payment of a transfer fee of five dollars (\$5.00).

(2) For all vehicles registered under the fee schedule in section 49-434, Idaho Code, except proportionally registered vehicles under section 49-435, Idaho Code, the transferor shall pay the registration fee as specified in that section less the registration fee already paid, plus a transfer fee of five dollars (\$5.00).

(3) For all vehicles registered under section 49-435, Idaho Code, the transferor shall pay the registration fee as specified in section 49-434, Idaho Code, apportioned according to the provisions of section 49-435, Idaho Code, less the apportioned fee previously paid plus a transfer fee of eight dollars (\$8.00).

(4) In the event of a transfer by operation of law of the title or interest of an owner in and to a vehicle registered as specified in sections 49-402, 49-402A, 49-434 and 49-435, Idaho Code, as upon inheritance, devise or bequest, order in bankruptcy or insolvency, execution sale, repossession upon default in performing the terms of a lease or executory sales contract, or otherwise, the registration shall expire and the registration card and plates shall be surrendered to the department. The vehicle shall not be operated upon the highways until and unless the person entitled thereto

shall apply for and obtain a new registration card and plates in accordance with the provisions of section 49-401A, Idaho Code. However, an administrator, executor, trustee or other representative of the owner, or a sheriff or other officer, or legal representative of any such person may operate or cause to be operated any vehicle upon the highway from the place of removal or place where formerly kept by the owner to a place of keeping or storage, provided the place of removal and place of destination are both located within the state of Idaho, and after obtaining a written permit from the department of the local police authorities having jurisdiction of the highways and upon displaying in plain sight upon the vehicle a placard bearing the name and address of the person authorizing and directing such movement, the placard to be plainly readable from a distance of one hundred (100) feet during daylight. [1927, ch. 244, § 16, p. 374; I.C.A., § 48-117; am. 1935, ch. 82, § 1, p. 145; am. 1953, ch. 261, § 7, p. 425; am. 1955, ch. 58, § 1, p. 108; am. 1957, ch. 34, § 1, p. 62; am. 1969, ch. 70, § 3, p. 214; am. 1970, ch. 17, § 1, p. 31; am. 1976, ch. 87, § 1, p. 297; am. 1984, ch. 195, § 10, p. 445; am. 1985, ch. 36, § 3, p. 70; am. 1987, ch. 190, § 2, p. 382; am. and redesign. 1988, ch. 265, § 93, p. 549; am. 1989, ch. 318, § 5, p. 817; am. 1992, ch. 35, § 19, p. 99; am. 1992, ch. 261, § 18, p. 755; am. 2007, ch. 22, § 1, p. 39.]

STATUTORY NOTES

Amendments. — This section was amended by two 1992 acts — ch. 35, § 19, effective July 1, 1992 and ch. 261, § 18, effective January 1, 1993 — which do not appear to conflict and have been compiled together.

The 1992 amendment, by ch. 35, § 19, in subsection (1) in the first sentence substituted “49-401A” for “49-441” preceding “Idaho Code” and deleted a former second sentence which read: “License plates remaining inactive in the registration file for more than twelve (12) consecutive months shall be deemed cancelled, and new license plates with the identical number may be reissued to another applicant.”; in present subsection (4) substituted “49-401A” for “49-441” preceding “Idaho Code”.

The 1992 amendment, by ch. 261, § 18, in subsection (1), deleted a former second sentence and in the present second sentence deleted “under the provisions of this subsection (1)” preceding “shall be paid to the”, substituted “deposited” for “place” following “is registered and”, and added “or in the state highway account if the transfer is made by the department” following “current expense fund”; in subdivision (1)(a), in the first sentence substituted “registration” for “operating” preceding “fee” in two places and substituted “five dollars (\$5.00)” for “two dollars (\$2.00)” in two places; in subdivision (1)(b) and (c) substituted “five dollars (\$5.00)” for “two dollars (\$2.00)”; substituted the present

subsection (2) for one which read, “Upon a change of registered ownership of any motor vehicle upon which the license plates have been computed as specified in section 49-434, Idaho Code, the license plates shall be returned to the department. No part of the registration fees or license fees shall be subject to refund.”; added the present subsection (3) and renumbered the former subsection (3) as subsection (4).

The 2007 amendment, by ch. 22, in subsection (2), deleted the former last sentence which read: “No portion of the fees previously paid shall be subject to refund if the license plates and registration are not transferred to another vehicle or if the registration fee previously paid is greater than the new fee”; in subsection (3), deleted the former last sentence which read: “No portion of the registration fee previously paid shall be subject to refund if the license plate or plates and registration are not transferred to another vehicle or if the registration fee previously paid is greater than the new fee.”

Compiler's Notes. — This section was formerly compiled as § 49-117 and was amended and redesignated by § 93 of S.L. 1988, ch. 265 to become this section.

Former § 49-431 was amended and redesignated as subsection (1) of § 49-522 by § 137 of S.L. 1988, ch. 265.

Effective Dates. — Section 22 of S.L. 1992, ch. 261 read: “(1) This act shall be in full force and effect on and after January 1, 1993.

“(2) The amendments made in Sections 49-402, 49-403A, 49-404, 49-404A, 49-405, 49-406, 49-406A, 49-407, 49-408, 49-409, 49-414, 49-415, 49-415A, 49-415B, 49-416 and 49-422, Idaho Code, relating to changes in fees shall take effect no later than July 1, 1993, as determined by the Director of the Idaho Transportation Department.”

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 69 et seq.

49-432. Temporary registration for residents and nonresidents — Fees. — (1) When a vehicle or combination of vehicles subject to registration is to be moved upon the public highways in the state of Idaho, the department may issue a permit in lieu of registration for any vehicle or combination of vehicles upon the payment of a fee as set forth in the following schedule:

- (a) One hundred twenty (120) hour permit
 - Single vehicle \$60.00
 - Combination of vehicles \$120.00
 - (b) Fuel permit \$60.00
 - (c) Thirty (30) day unladen weight permit \$60.00
- An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee shall be eligible for a thirty (30) day unladen weight permit for the unladen movement from the point of entry into the state to the destination of the new lessee’s place of business.

If an annual registration is purchased within thirty (30) calendar days of issuance of a permit under paragraph (a) or (c) of this subsection (1), the amount of the permit fee shall be applied to the registration fee. No portion of a permit fee is subject to refund.

(2) Permits to operate a vehicle or combination of vehicles in excess of the registered maximum gross vehicle weight up to a maximum of one hundred twenty-nine thousand (129,000) pounds gross vehicle weight shall be:

- (a) One hundred twenty (120) hour permit to increase gross weight \$50.00
- (b) Thirty (30) day permit to increase gross vehicle weight:

Maximum Registered Gross Weight of Vehicle (Pounds)	Temporary Permitted Maximum Gross Weight (Pounds)					
	80,000	86,000	96,000	106,000	116,000	129,000
50,001-60,000	\$225	\$250	\$275	\$300	\$325	\$350

The permit issued pursuant to this subsection (2) shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable. At the time of purchasing a permit, the applicant may purchase additional permits in any combination which does not exceed a maximum of ninety (90) days.

(3) A temporary permit shall be in a form, and issued under rules adopted by the board, and shall be displayed at all times while the vehicle is being

operated on the highways by posting the permit upon the windshield of each vehicle or in another prominent place, where it may be readily legible.

(4) Any permit issued pursuant to subsection (2) of this section shall be purchased prior to movement of the vehicle on a highway, and such permit shall be in addition to and available only to a vehicle which is currently and validly registered in Idaho pursuant to section 49-432(1), 49-434(1), 49-434(8)(c) or 49-435, Idaho Code.

(5) The department may select vendors to serve as agents on state highways for the purpose of selling permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate of three dollars (\$3.00) per permit sold, and he shall collect the fees specified in this section, and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state in a sum as shall be fixed by the board, the premium on the bond to be paid by the department. [1927, ch. 244, § 19, p. 374; am. 1929, ch. 195, § 4, p. 362; I.C.A., § 48-120; am. 1933, ch. 126, § 1, p. 195; am. 1937, ch. 120, § 1, p. 179; am. 1939, ch. 66, § 1, p. 116; am. 1950 (E.S.), ch. 81, § 1, p. 108; am. 1951, ch. 119, § 7, p. 273; am. 1953, ch. 261, § 8, p. 425; am. 1955, ch. 137, § 1, p. 277; am. 1957, ch. 19, § 1, p. 23; am. 1963, ch. 421, § 1, p. 1095; am. 1974, ch. 27, § 93, p. 811; am. 1976, ch. 99, § 1, p. 420; am. 1980, ch. 284, § 1, p. 753; am. 1981, ch. 12, § 1, p. 21; am. 1982, ch. 95, § 8, p. 185; am. 1984, ch. 87, § 15, p. 169; am. 1984, ch. 195, § 11, p. 445; am. and redesign. 1988, ch. 265, § 94, p. 549; am. 1998, ch. 265, § 1, p. 875; am. 2001, ch. 176, § 1, p. 599; am. 2001, ch. 355, § 2, p. 1242; am. 2003, ch. 315, § 1, p. 859; am. 2006, ch. 58, § 1, p. 182; am. 2008, ch. 336, § 1, p. 924.]

STATUTORY NOTES

Amendments. — This section was amended by two 2001 acts which appear to be compatible and have been compiled together.

The 2001 amendment, by ch. 176, § 1, in subsection (1)(a), substituted “One hundred twenty (120)” for “Ninety-six (96)”; “\$30.00” for “\$25.00”; “\$60.00” for “\$50.00”; “\$30.00” for “\$25.00”; and in former subsection (4), substituted “one hundred twenty (120)” for “ninety-six (96)”.

The 2001 amendment, by ch. 355, § 2, in subsection (1), deleted “trip” following “may issue a”; in subsection (1)(a), deleted “trip” following “hour”; added subsection (2); added the present undesignated paragraph following subsection (2); redesignated a former subsection (2) as subsection (3); added a subsection (4); redesignated former subsections (3) and (4) as subsections (5) and (6); in subsection (5), deleted “trip” following “of selling”; substituted “three dollars (\$3.00)” for “two dollars (\$2.00)”; in former subsection (6), deleted “trip” following “hour” and inserted “the unladen” preceding “movement”.

The 2006 amendment, by ch. 58, added subsection (1)(c) and the undesignated paragraph following it and deleted former subsection

(6) which read: “An owner-operator vehicle moving between lessee fleets where the vehicle registration was issued in the name of the former lessee, shall be eligible for a one hundred twenty (120) hour permit for the unladen movement from the point of entry into the state to the destination of the new lessee’s place of business.”

The 2008 amendment, by ch. 336, in subsection (1), doubled the fee amounts and added the last paragraph; and in subsection (2)(b), deleted the listings for permits to increase gross vehicle weights for vehicles between 60,001 and 128,000 pounds.

Legislative Intent. — Section 3 of S.L. 2003, ch. 315 provides: “It is the intent of the Legislature that the Idaho Transportation Department shall periodically report to the Legislature on the effect of the pilot project program. The Department shall report on the results of its monitoring and evaluation of all important impacts, including impacts to safety, bridges and pavement on all the State Pilot Project Routes designated in subsection (4) of Section 49-1004, Idaho Code. Reports shall be submitted to the Legislature no later than January 30 in the years 2007, 2010 and

2013. The Pilot Project Program shall sunset on and after July 1, 2013, unless otherwise extended or sooner repealed by the Legislature.”

Compiler's Notes. — This section was formerly compiled as § 49-120 and was

amended and redesignated by § 94 of S.L. 1988, ch. 265 to become this section.

Former § 49-432 was amended and redesignated as subsection (2) of § 49-522 by § 137 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Dual taxation.

Interstate commerce subject to license fee.

Presumption of validity.

Registration by nonresident.

Tax not discriminatory.

Dual Taxation.

Tax on transportation of automobiles in caravans is excise or license tax, not within the constitutional prohibition of dual taxation. *George B. Wallace, Inc. v. Pfost*, 57 Idaho 279, 65 P.2d 725 (1937) (decided under former § 49-1802, redesignated as § 49-1101, and repealed by S.L. 1998, ch. 265, § 2).

Interstate Commerce Subject to License Fee.

The state, even though motor carrier is engaged exclusively in interstate commerce, may impose nondiscriminatory tax or license fee for use of highways if bearing a reasonable relation to privilege. *Consolidated Freight Lines v. Pfost*, 7 F. Supp. 629 (D. Idaho 1934).

Presumption of Validity.

Presence of a properly displayed temporary permit carries with it a presumption of validity, not of invalidity. *State v. Salois*, — Idaho —, 160 P.3d 1279 (Ct. App. 2007).

Registration by Nonresident.

State statute requiring nonresident owners to register for motor vehicles engaged in transportation for compensation within the state, and imposing nondiscriminatory license fees for highway purposes based on weights, tires and capacity of vehicle, is applicable to a corporation owning a truck transporting interstate freight, and as so applied did not violate commerce clause. *Consolidated Freight Lines v. Pfost*, 7 F. Supp. 629 (D. Idaho 1934).

Tax Not Discriminatory.

Statute taxing transportation of automobiles in caravans does not unconstitutionally discriminate against resident dealers paying also a dealers' license tax. *George B. Wallace, Inc. v. Pfost*, 57 Idaho 279, 65 P.2d 725 (1937) (decided under former § 49-1802, redesignated as § 49-1101, and repealed by S.L. 1998, ch. 265, § 2).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, §§ 61, 90.

C.J.S. — 60 C.J.S., Motor Vehicles, § 156 et seq.

49-433. Single trip permits — Fee. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1988, ch. 265, § 95, p. 549; am. 1992, ch. 35, § 20, p. 99, was repealed by S.L. 1998, ch. 265, § 2, effective July 1, 1998.

A former § 49-433, which comprised 1957, ch. 141, § 3, p. 233, was repealed by S.L. 1988, ch. 265, § 69, effective January 1, 1989.

49-434. Operating fees. — (1) There shall be paid on all commercial vehicles, noncommercial vehicles, and on all farm vehicles having a maximum gross weight not in excess of sixty thousand (60,000) pounds, an annual registration fee in accordance with the following schedule.

Unladen Weight for Wreckers Maximum Gross Weight For Other Vehicles (Pounds)	Annual Registration Fee	
	Noncommercial and Farm Vehicles	Commercial Vehicles and Wreckers
8,001-16,000 inc.	\$ 48.00	\$ 48.00
16,001-26,000 inc.	61.08	143.40
26,001-30,000 inc.	91.68	223.80
30,001-40,000 inc.	130.08	291.60
40,001-50,000 inc.	188.28	360.00
50,001-60,000 inc.	311.88	515.40

(2) There shall be paid on all commercial vehicles, irrespective of body type, and on all farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, an annual registration fee in the amount prescribed by subsection (8) of this section, as applicable.

(3) In addition, the annual registration fee for trailers shall be:

- (a) Trailer or semitrailer in a combination of vehicles \$15.00
- (b) Rental utility trailer with a gross weight of two thousand (2,000) pounds or less \$8.00
- (c) Rental utility trailer with a gross weight over two thousand (2,000) pounds \$15.00

(4) As an option to the trailer and semitrailer and rental utility trailer annual registrations issued pursuant to subsection (3) of this section, the department may provide a nonexpiring registration for trailers and semitrailers, and an optional, extended registration for rental utility trailers.

(a) For trailers and semitrailers, the nonexpiring registration fee shall be one hundred five dollars (\$105). The license plate originally issued shall remain on the trailer or semitrailer until the registration is canceled. If the registrant does not transfer the plate and registration to another trailer or semitrailer titled to the registrant, the plate and registration shall be canceled and no part of the fee is subject to refund. Provided however, the registrant may transfer the nonexpiring plate and registration to another trailer or semitrailer titled to the registrant. The registration document shall be the official record of the status of the nonexpiring registration. No pressure-sensitive validation sticker shall be required or issued for such nonexpiring license plate.

(b) For rental utility trailers, the registrant may prepay the annual registration for an additional one (1), two (2), three (3) or four (4) years, but in no event shall the optional registration period extend beyond five (5) years. The fee shall be as specified in subsection (3)(b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unrenewed plate shall be returned to the department if it is not entered on the renewal application.

(5) A fleet registration option is available to owners who have twenty-five (25) or more commercial or farm vehicles or any combination thereof. Such

owners may register all of their company vehicles with the department in lieu of registering with a county assessor. To qualify the fleet must be owned and operated under the unified control of one (1) person and the vehicles must be physically garaged and maintained in two (2) or more counties. Fleet registration shall not include fleets of rental vehicles. The department shall provide a registration application to the owner and the owner shall provide all information that the department determines is necessary. The department shall devise a special license plate numbering system for fleet-registered vehicles as an alternative to county license plates. The fleet registration application and all subsequent registration renewals shall include the physical address where a vehicle is principally used, garaged and maintained. The fleet owner shall report the physical address to the department upon initial registration, on each renewal, and at any time a vehicle registered under this option is permanently transferred to another location.

(6) If the ownership of a vehicle changes during the registration period, the original owner may transfer the plate to another vehicle. The remaining fee shall be credited against the cost of the new registration. Refunds may be given for any unexpired portion of the vehicle registration fee if the plate is not transferred by the owner to another vehicle. Any request for refund shall include surrender of the license plate, validation sticker and registration document. Owners of vehicles registered under the international registration plan may request a refund of the unexpired portion of the Idaho vehicle registration fee by presenting evidence from the base jurisdiction that the license plate, validation sticker and registration document have been surrendered. A license plate shall not be transferred to another owner when the ownership of a vehicle changes. The owner shall obtain a replacement plate, validation sticker if required, and a registration document when a plate is lost, destroyed or becomes illegible.

(7) An administrative fee of four dollars (\$4.00) shall be paid and deposited to the state highway account on all registrations completed by the department under subsection (1) or (8)(a) of this section. Vehicles registered under subsection (8)(b) of this section shall pay the fee provided in section 49-435(2), Idaho Code.

(8) There shall be paid on all commercial and farm vehicles having a maximum gross weight in excess of sixty thousand (60,000) pounds, a registration fee based upon the maximum gross weight of a vehicle as declared by the owner and the total number of miles driven on roads and highways in the state, county, city and highway district systems in Idaho, and if registered under the international registration plan (IRP), in all other jurisdictions. The appropriate registration fee shall be determined as follows:

(a) If the owner registers vehicles under the international registration plan (IRP), the appropriate mileage column shall be determined by the total miles an owner operated a fleet of vehicles on roads and highways in the state, county, city and highway district systems in Idaho and in all other jurisdictions in the preceding year, as defined in section 49-117, Idaho Code, and by the maximum gross weight of each vehicle within a fleet.

(b) If the owner registers vehicles under the international registration plan and determines that the average international registration plan fleet miles, calculated by dividing the total IRP fleet miles in all jurisdictions by the number of registered vehicles, is less than fifty thousand one (50,001) miles, the owner may apply to the department for refund of a portion of the registration fees paid, consistent with the fee schedules set forth in this section. The department shall provide an application for the refund. An owner making application for refund under this section shall be subject to auditing as provided in section 49-439, Idaho Code.

(c) If the owner is not registering vehicles under the international registration plan, the appropriate mileage column shall be determined by the total miles the owner operated each of the vehicles to be registered on roads and highways in the state, county, city and highway district systems in Idaho in the preceding year and by the maximum gross weight of each vehicle.

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
	1 to 7,500	7,501 to 20,000	20,001 to 35,000	35,001 to 50,000	Over 50,000
60,001-62,000	\$223	\$ 511	\$ 789	\$1,068	\$1,560
62,001-64,000	\$251	\$ 576	\$ 890	\$1,205	\$1,760
64,001-66,000	\$280	\$ 642	\$ 992	\$1,342	\$1,960
66,001-68,000	\$309	\$ 707	\$1,093	\$1,479	\$2,160
68,001-70,000	\$337	\$ 773	\$1,194	\$1,615	\$2,360
70,001-72,000	\$366	\$ 838	\$1,295	\$1,752	\$2,560
72,001-74,000	\$394	\$ 904	\$1,396	\$1,889	\$2,760
74,001-76,000	\$423	\$ 969	\$1,498	\$2,026	\$2,960
76,001-78,000	\$451	\$1,035	\$1,599	\$2,163	\$3,160
78,001-80,000	\$480	\$1,100	\$1,700	\$2,300	\$3,360
80,001-82,000	\$494	\$1,133	\$1,751	\$2,368	\$3,460
82,001-84,000	\$509	\$1,165	\$1,801	\$2,437	\$3,560
84,001-86,000	\$523	\$1,198	\$1,852	\$2,505	\$3,660
86,001-88,000	\$537	\$1,231	\$1,902	\$2,574	\$3,760
88,001-90,000	\$551	\$1,264	\$1,953	\$2,642	\$3,860
90,001-92,000	\$566	\$1,296	\$2,004	\$2,711	\$3,960
92,001-94,000	\$580	\$1,329	\$2,054	\$2,779	\$4,060
94,001-96,000	\$594	\$1,362	\$2,105	\$2,848	\$4,160
96,001-98,000	\$609	\$1,395	\$2,155	\$2,916	\$4,260
98,001-100,000	\$623	\$1,427	\$2,206	\$2,985	\$4,360
100,001-102,000	\$637	\$1,460	\$2,257	\$3,053	\$4,460
102,001-104,000	\$651	\$1,493	\$2,307	\$3,121	\$4,560
104,001-106,000	\$666	\$1,526	\$2,358	\$3,190	\$4,660
106,001-108,000	\$680	\$1,558	\$2,408	\$3,258	\$4,760
108,001-110,000	\$694	\$1,591	\$2,459	\$3,327	\$4,860
110,001-112,000	\$709	\$1,624	\$2,510	\$3,395	\$4,960
112,001-114,000	\$723	\$1,657	\$2,560	\$3,464	\$5,060
114,001-116,000	\$737	\$1,689	\$2,611	\$3,532	\$5,160
116,001-118,000	\$751	\$1,722	\$2,661	\$3,601	\$5,260
118,001-120,000	\$766	\$1,755	\$2,712	\$3,669	\$5,360
120,001-122,000	\$780	\$1,788	\$2,763	\$3,738	\$5,460
122,001-124,000	\$794	\$1,820	\$2,813	\$3,806	\$5,560
124,001-126,000	\$809	\$1,853	\$2,864	\$3,874	\$5,660

Maximum Gross Weight of Vehicle (Pounds)	Total Miles Driven				
	1 to 7,500	7,501 to 20,000	20,001 to 35,000	35,001 to 50,000	Over 50,000
126,001-128,000	\$823	\$1,886	\$2,914	\$3,943	\$5,760
128,001-129,000	\$837	\$1,918	\$2,965	\$4,011	\$5,860

(d) In addition to the fees set forth in paragraphs (a) and (c) of this subsection (8), an owner or operator may purchase a temporary permit as provided in section 49-432(2), Idaho Code, for operation of a vehicle at a weight in excess of the current, valid, registered maximum gross vehicle weight. The permit so issued shall be specific to the motor vehicle to which it is issued. No permit or fee shall be transferable or apportionable to any other vehicle, nor shall any such fee be refundable.

(e) Any commercial or farm vehicle registered for more than sixty thousand (60,000) pounds up to one hundred six thousand (106,000) pounds traveling fewer than two thousand five hundred (2,500) miles annually on roads and highways in the state, county, city and highway district systems in Idaho shall pay an annual registration fee of two hundred fifty-five dollars (\$255). The provisions of section 49-437(2), Idaho Code, shall not apply to vehicles registered under this subsection (8)(e).

(9)(a) During the first registration year that the fee schedule in subsection (8)(c) of this section is in use, an owner shall use the mileage data from the records used to report the mileage use fee in the immediately preceding year as the basis for determining the appropriate registration fee schedule.

(b) Any owner who registers a motor vehicle for the first time and who has no mileage history for the vehicle shall estimate the miles to determine the appropriate fee schedule in subsection (8)(c) of this section. When estimating the miles, the owner shall provide a statement on the application of the method used to arrive at the estimated miles.

(c) Any owner using any fee schedule other than the highest fee schedule under subsection (8)(c) of this section, shall certify at the time of registration that the miles operated in the preceding year do not exceed the schedule applied for. Any owner using a fee schedule under subsection (8)(c) of this section that is less than the highest schedule shall maintain records to substantiate the use of the schedule as required by section 49-439, Idaho Code.

(10) An owner registering under subsection (8)(a) or (8)(c) of this section may elect to pay the full annual registration fee at the time of registration or renewal of registration, or an owner may pay at least one-quarter (1/4) of the annual registration fee due. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(11) An owner registering or renewing a registration under subsection (8)(a) of this section electing to use installment payments as provided in subsection (10) of this section, shall pay all of the fees due to other IRP jurisdictions in addition to one-quarter (1/4) of the Idaho fee due at the time

of registration or reregistration. The remainder of the annual Idaho registration fee shall be paid in three (3) equal installments on dates as billed by the department.

(12) If any vehicle or combinations of vehicles haul nonreducible loads, as authorized under the provisions of section 49-1004, Idaho Code, and weigh less than the starting weights per axle configuration listed in column 1 of subsection (2), section 49-1004, Idaho Code, then and in that event there shall be paid for that vehicle, in addition to the other fees required in this section, an additional use fee of 2.1 mills per mile for each two thousand (2,000) pounds or fraction thereof of the maximum gross weight in excess of those set forth in section 49-1001, Idaho Code. [I.C., § 49-127, as added by 1984, ch. 195, § 14, p. 445; am. 1986, ch. 135, § 1, p. 362; am. 1987, ch. 361, § 3, p. 794; am. and redesign. 1988, ch. 265, § 96, p. 549; am. 1988, ch. 337, § 1, p. 1003; am. 1989, ch. 310, § 18, p. 769; am. 1989, ch. 318, § 6, p. 817; am. 1990, ch. 197, § 3, p. 439; am. 1991, ch. 295, § 2, p. 769; am. 1992, ch. 35, § 21, p. 99; am. 1992, ch. 253, § 1, p. 737; am. 1992, ch. 261, § 19, p. 755; am. 1993, ch. 273, § 1, p. 913; am. 1993, ch. 399, § 1, p. 1463; am. 1994, ch. 246, § 3, p. 766; am. 1994, ch. 311, § 2, p. 977; am. 1997, ch. 51, § 1, p. 85; am. 1998, ch. 108, § 1, p. 367; am. 1998, ch. 392, § 11, p. 1197; am. 2000, ch. 62, p. 134; am. 2000, ch. 418, § 7, p. 1331; am. 2001, ch. 73, § 11, p. 154; am. 2001, ch. 185, § 1, p. 643; am. 2001, ch. 353, § 1, p. 1235; am. 2001, ch. 355, § 3, p. 1242; am. 2007, ch. 23, § 1, p. 41.]

STATUTORY NOTES

Cross References. — State highway account § 40-702.

Amendments. — The amendment by S.L. 1993, ch. 399, § 1, near the end of the second sentence of subsection (4) substituted "9" for "7" preceding "of this section". However, S.L. 1993, ch. 273 had deleted the words "subsection" and "of" and the parentheses that had previously enclosed the numeral "7".

This section was amended by two 1994 acts — ch. 246, § 3, and ch. 311, § 2, both effective July 1, 1994 — which appear to make an identical amendment to this section, and have been compiled together. Both amendments added "and deposited to the state highway account" in subsection (3) preceding "on all registrations completed".

This section was amended by two 1998 acts — ch. 108, § 1, and ch. 392, § 11, both effective July 1, 1998, which do not conflict and have been compiled together.

The 1998 amendment, by ch. 108, § 1, inserted "and weigh less than the starting weights per axle configuration listed in column 1 of subsection (2), section 49-1004, Idaho Code" in subsection (11).

The 1998 amendment, by ch. 392, § 11, rewrote subsections (3) and (4), added subsection (5), redesignated former subsections (5) through (12) as present subsections (6) through (14), in subsection (6), substituted

"vehicle" for "trailer or semitrailer" throughout the subsection, substituted "license" for "extended", deleted "A sticker validating the extended registration shall be affixed to the license plate", inserted "if required", deleted "from the department", and inserted "becomes."

The 2007 amendment, by ch. 23, rewrote subsection (4) which formerly read: "As an option to the trailer and semitrailer annual registration, the department may provide extended registration."

"(a) For trailers and semitrailers, the optional extended-registration period shall not extend beyond seven (7) years.

"(b) The fee shall be fifteen dollars (\$15.00) for each year.

"(c) The license plate originally issued shall remain on the trailer or semitrailer until the registration expires.

"(d) The registration document shall be the official record of the status of the extended registration. No pressure-sensitive validation sticker shall be required.

"(e) For rental utility trailers, the optional registration period shall not extend beyond five (5) years. The fee shall be as specified in subsection (3)(b) or (c) of this section. A pressure-sensitive sticker shall be used to validate the license plate. The license plate shall become void if the owner's interest in the rental

utility trailer changes during the five (5) year period. If the owner fails to enter the rental utility trailer on the annual renewal application during the five (5) year period, the registration record shall be purged. Any unexpired plate shall be returned to the department if it is not entered on the renewal application."

Legislative Intent. — Section 2 of S.L. 2001, ch. 185, read: "It is legislative intent that, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., the following provisions setting forth the process for transitioning from a combination of registration fees and weight-distance use fees to a system of registration fees only, shall take effect as provided herein. These following provisions are both integral and necessary for the administration and implementation of the new registration system. It is legislative intent that the following provisions for vehicle registrations shall be in effect, subject to the contingencies stated above, from October 1, 2000, through September 30, 2001. Subsection (5) shall continue to be in effect until the expiration of the applicable limitations period under that subsection.

"(1) With regard to registrations for vehicles exceeding sixty thousand pounds gross vehicle weight which expired on December 31, 2000, the Idaho Transportation Department may accept payment for registration fees that will become effective on January 1, 2001, beginning October 1, 2000, and the owners 19 of those vehicles shall cease to accrue new liability for repealed weight-distance use fees on January 1, 2001, and shall be liable for the new registration fees on January 1, 2001. An owner shall pay at least one-quarter of the annual Idaho registration fee due. The remainder of the annual Idaho registration fee shall be paid in three equal installments on dates as billed by the department.

"(2) With regard to registration under the International Registration Plan for foreign-based vehicles exceeding sixty thousand pounds gross vehicle weight which expire in any month beginning October 1, 2000, through September 30, 2001, the owners of those vehicles shall cease to accrue new liability for the repealed weight-distance use fees and shall be liable for the new registration fees on the first day of the month during which their registration is due. Owners of vehicles whose registration has not yet expired during a given calendar quarter shall continue to accrue, report and remit the weight-distance use fees until the quarter in which their registration expires under the

repealed weight-distance statutes.

"(3) With regard to registration under the International Registration Plan for Idaho-based vehicles exceeding sixty thousand pounds gross vehicle weight which expire in any month beginning October 1, 2000, through September 30, 2001, the owners of those vehicles shall have the option of converting from the weight-distance use fee system to the registration fee only system at the time their registration is scheduled to expire, or may convert any time during the period from October 1, 2000, through September 30, 2001. At the time of conversion, the owner shall pay all weight-distance use fees due and shall pay at least one-quarter of the annual Idaho registration fee due, less any unexpired portion of registration fees already paid. The remainder of the annual Idaho registration fee shall be paid in three equal installments on dates as billed by the department.

"(4) With regard to registration under the International Registration Plan for Idaho-based vehicles exceeding sixty thousand pounds gross vehicle weight which are being registered for the first time during the period from October 1, 2000, through September 30, 2001, the owner shall pay at least one-quarter of the annual Idaho registration fee and shall pay all other amounts due and owing to all other jurisdictions in which the owner intends to operate. The remainder of the annual registration fee due to Idaho shall be paid in three 54 equal installments on dates as billed by the department.

"(5) The Idaho Transportation Department may continue to enforce the repealed statutes addressing payment and collection of weight-distance use fees to audit and collect weight-distance use fees for the limitation period that would be in effect if the weight-distance use fees had not been repealed."

Compiler's Notes. — This section was formerly compiled as § 49-127 and was amended and redesignated by § 96 of S.L. 1988, ch. 265 to become this section.

Former § 49-434 was amended and redesignated as § 49-523 by § 138 of S.L. 1988, ch. 265.

Effective Dates. — Section 8 of S.L. 1989, ch. 318 provided that the act would become effective January 1, 1990.

Section 2 of S.L. 1993, ch. 399 provided that the act should take effect on and after January 1, 1994.

Section 2 of S.L. 1997, ch. 51 provided that the act should take effect on and after January 1, 1998.

Section 20 of S.L. 2000, ch. 418 provides: "Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth

Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice

referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 7 of ch. 418 became effective October 1, 2000.

Section 3 of S.L. 2001, ch. 353 provided that the act should take effect on and after October 1, 2001.

JUDICIAL DECISIONS

Record Keeping.

The legislative intent in enacting the 1991 amendment to subsection (2) of § 49-436 was not to indicate that the department's record keeping requirements were contrary to earlier legislative intent, but rather to narrow the earlier delegation of authority to the agency. The mere fact of the 1991 amendment did not compel the conclusion that the department was previously without authority to require record keeping by vehicle configuration prior to the effective date of the amendment. Because the regulations of the transportation regarding multiple weight reporting are reasonably directed to the accomplishment of purposes of the statutes under which they are established, they are not in conflict with the pre-1991 version of subsection (2) of § 49-436 or the pre-1991 version of subsection (2) of this section. *D & D Trucking, Inc. v. Idaho Transp. Dep't*, 126 Idaho 417, 885 P.2d 376 (1994).

Transportation department's regulations, requiring trucking company to keep records

regarding multiple weight reporting, whereby the company was required to keep records of trips traveled by trucks registered at 82,000 pounds and those registered at 84,000 pounds, were not in conflict with nor beyond the scope of authority granted the department by this section and § 49-436. *D & D Trucking, Inc. v. Idaho Transp. Dep't*, 126 Idaho 417, 885 P.2d 376 (1994).

Where trucking company, for purposes of use taxes, failed to keep adequate records to distinguish which of its vehicles was entitled to be assessed at the lowest rate and which were subject to the highest rate, because the company failed to justify a lower rate by keeping adequate records which would indicate the vehicles that weighed 82,000 pounds and those that weighed 84,000 pounds, the department's actions in raising assessment of all the vehicles to the highest registered weight, 84,000 pounds was appropriate under subsection (2) of this section. *D & D Trucking, Inc. v. Idaho Transp. Dep't*, 126 Idaho 417, 885 P.2d 376 (1994).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Burden on interstate commerce.
Commercial trucks.
Constitutionality.
Construction of statute.
Double taxation.
Equal protection.
Interstate commerce.
Registration by nonresidents.
Trailers.
Trucker for mining company.

Burden on Interstate Commerce.

Statute imposing license fee on trailers, used by auto transportation company is not invalid as imposing a burden on interstate commerce. *Garrett Transf. & Storage Co. v. Pfof*, 54 Idaho 576, 33 P.2d 743 (1933).

Commercial Trucks.

Exception of motor truck owned and operated by person engaged in farming or stock-raising, and employing truck for transporting products of husbandry, from classification of commercial truck is not arbitrary. *Curtis v.*

Pfof, 53 Idaho 1, 21 P.2d 73 (1933).

Constitutionality.

The constitution does not prohibit the state from raising revenue in the manner provided for in former similar law. *Achenbach v. Kincaid*, 25 Idaho 768, 140 P. 529 (1914).

Legislative classification of motor truck operated for transportation of merchandise or raw products for hire as commercial truck, and requiring payment of fee fifty per cent in excess of fees for similar trucks not operated for hire, is not unconstitutional as unreasonable.

able or discriminatory. *Curtis v. Pfost*, 53 Idaho 1, 21 P.2d 73 (1933).

Statutes providing for license fees for auto-stage trailers and semi-trailers, and imposing tax on gross operating revenue, as applied to auto transportation company doing both intrastate and interstate business, is not invalid as constituting interference with interstate commerce. *Garrett Transf. & Storage Co. v. Pfost*, 54 Idaho 576, 33 P.2d 743 (1933).

Construction of Statute.

The courts will not assume that enforcement officials will construe or apply statute so as to render it obnoxious to the federal constitution. *Garrett Transf. & Storage Co. v. Pfost*, 54 Idaho 576, 33 P.2d 743 (1933).

Double Taxation.

Statute imposing license fee on trailers used by auto transportation company is not invalid as double taxation. *Garrett Transf. & Storage Co. v. Pfost*, 54 Idaho 576, 33 P.2d 743 (1933).

Equal Protection.

Statute imposing license fee on trailers used by auto transportation company, in effect exempting all other trailers used by individuals or common carriers, does not deprive auto transportation company of equal protection of laws. *Garrett Transf. & Storage Co. v. Pfost*, 54 Idaho 576, 33 P.2d 743 (1933).

Interstate Commerce.

The state, even though motor carrier is engaged exclusively in interstate commerce, may impose nondiscriminatory tax or license fee for use of highways if bearing a reasonable relation to privilege. *Consolidated Freight Lines v. Pfost*, 7 F. Supp. 629 (D. Idaho 1934).

Registration by Nonresidents.

State statute requiring nonresident owners to register motor vehicles engaged in transportation for compensation within the state, and imposing nondiscriminatory license fees for highway purposes based on weights, tires and capacity of vehicle, is applicable to a corporation owning a truck transporting interstate freight, and, as so applied, did not violate commerce clause of constitution. *Consolidated Freight Lines v. Pfost*, 7 F. Supp. 629 (D. Idaho 1934).

Trailers.

Auto transportation company operating trailer is subject to a license fee thereon. *Garrett Transf. & Storage Co. v. Pfost*, 54 Idaho 576, 33 P.2d 743 (1933).

Trucker for Mining Company.

A person trucking solely for mining company under contract is operator of commercial truck and liable for license fees. *Curtis v. Pfost*, 53 Idaho 1, 21 P.2d 73 (1933).

49-434A. Penalties for failure to pay operating fees. — Any motor vehicle or combination of vehicles operated in Idaho for which the proper registration and operating fees in Idaho have not been paid under the provisions of section 49-432, 49-434 or 49-435, Idaho Code, shall have committed a misdemeanor punishable as provided in section 49-1013, Idaho Code, and shall, upon discovery, be subject to the following additional penalties:

Seizure and detention for up to seventy-two (72) hours by any law enforcement agency or port of entry personnel of the vehicle and its entire cargo if the cargo does not consist of perishable food products or livestock;

(1) Release from detention shall be accomplished only by presentation of proper evidence that the applicable fees have been paid; or

(2) Off-loading of any cargo onto a properly licensed and registered vehicle. [I.C., § 49-434A, as added by 1994, ch. 291, § 1, p. 911; am. 1995, ch. 251, § 1, p. 826; am. 1998, ch. 392, § 12, p. 1197; am. 2005, ch. 182, § 1, p. 557.]

STATUTORY NOTES

Effective Dates. — Section 2 of S.L. 1994, ch. 291 declared an emergency and provided that this act shall be in full force and effect on and after April 1, 1994. Approved March 31, 1994.

Section 2 of S.L. 1995, ch. 251 declared an emergency. Approved March 20, 1995.

49-435. Proportional registration of commercial vehicles. —

(1) Any owner engaged in operating one (1) or more fleets of commercial vehicles may, in lieu of the registration fees imposed by section 49-434, Idaho Code, register each fleet for operation in this state by filing an application with the department which shall contain the information required by the international registration plan (IRP) agreement. Any owner who makes application for proportional registration under the provisions of the international registration plan shall comply with the terms and conditions of the IRP agreement.

(2) The department shall register the vehicle so described and identified and may issue license plates or distinctive sticker or other suitable identification device for each vehicle listed in the application upon payment of the fees required under subsections (1) and (8) of section 49-434, Idaho Code, and an additional identification charge of eight dollars (\$8.00) per vehicle. The fees collected for the additional identification shall be deposited to the state highway account. A registration card shall be issued for each proportionally registered vehicle appropriately identifying it which shall be carried in or upon the vehicle identified at all times.

(3) Fleet vehicles so registered and identified shall be deemed to be fully licensed and registered in this state for any type of movement or operation.

(4) The right to the privilege and benefits of proportional registration of fleet vehicles extended by this section, or by any contract, agreement, arrangement or declaration made under the authority provided in section 49-201, Idaho Code, shall be subject to the condition that each fleet vehicle proportionally registered shall also be proportionally or otherwise properly registered in at least one (1) other jurisdiction during the period for which it is proportionally registered in this state.

(5) No provision of this section relating to proportional registration of fleet vehicles shall be construed as requiring any vehicle to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged including regular registration or temporary trip permit. [I.C., § 49-127B, as added by 1967, ch. 56, § 1, p. 109; am. 1982, ch. 27, § 1, p. 55; am. 1984, ch. 195, § 15, p. 445; am. and redesign. 1988, ch. 265, § 97, p. 549; am. 1991, ch. 295, § 3, p. 769; am. 1992, ch. 261, § 20, p. 755; am. 1994, ch. 246, § 4, p. 766; am. 1994, ch. 311, § 3, p. 977; am. 2000, ch. 418, § 8, p. 1331; am. 2007, ch. 90, § 24, p. 246.]

STATUTORY NOTES

Cross References. — State highway account § 40-702.

Amendments. — This section was amended by two 1994 acts — ch. 246, § 4, and ch. 311, § 3 — both effective July 1, 1994. Both amendments added the same text to the last sentence of then subsection (4).

The 2007 amendment, by ch. 90, corrected the designation of the last paragraph.

Compiler's Notes. — This section was formerly compiled as § 49-127B and was amended and redesignated by § 97 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 20 of S.L. 2000, ch. 418 provides: "Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The

Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to

this section by § 8 of ch. 418 became effective October 1, 2000.

49-435A. Multijurisdictional use fee agreements. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-435A, as added by 1994, ch. 311, § 4, p. 977, was repealed by S.L. 2000, ch. 418, § 9, effective October 1, 2000.

Effective Dates. — Section 20 of S.L. 2000, ch. 418 provides: "Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court

has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the repeal of this section by § 9 of ch. 418 became effective October 1, 2000.

49-436. Quarterly reports — Maintaining records — Penalties — Deposit or bond to secure payment of fees — Appeal. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-127A, as added by 1953, ch. 261, § 12, p. 425; am. 1955, ch. 58, § 5, p. 108; am. 1957, ch. 20, § 1, p. 25; am. 1961, ch. 297, § 3, p. 530; am. 1963, ch. 154, § 1, p. 454; am. 1972, ch. 171, § 3, p. 420; am. 1974, ch. 27, § 96, p. 811; am. 1974, ch. 128, § 3, p. 1316; am. 1977, ch. 74, § 3, p. 144; am. 1979, ch. 93, § 2, p. 224; am. 1980, ch. 293, § 1, p. 763; am. 1982, ch. 95, § 12, p. 185; am. 1982, ch. 109, § 1, p. 309; am. 1983, ch. 142, § 1, p. 350; am. 1984, ch. 195, § 16, p. 445; am. 1985, ch. 36, § 4, p. 70; am. 1988, ch. 265, § 98, p. 549; am. 1989, ch. 404, § 1, p. 989; am. 1990, ch. 138, § 1, p. 312; am. 1991, ch. 295, § 4, p. 769; am. 1992, ch. 35, § 22, p. 99; am. 1992, ch. 261, § 21, p. 755; am. 1993, ch. 216, § 48, p. 587; am. 1993, ch. 273, § 2, p. 913; am. 1994, ch. 246, § 5, p. 766; am. 1994, ch. 311, § 5, p. 977; am. 1994, ch. 320, § 1, p. 1021; am. 1998, ch. 392, § 13, p. 1197; am. 2000, ch. 418, § 2, p. 1331, was repealed by S.L. 2000,

ch. 418, § 10, effective October 1, 2000.

This section was formerly compiled as § 49-128 and was amended and redesignated by § 98 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 20 of S.L. 2000, ch. 418 provides: "Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the repeal of this section by § 10 of ch. 418 became effective October 1, 2000.

49-437. Increase in maximum gross weight — Fees for remaining portion of year. — (1) When a motor vehicle registered under section 49-434 or 49-435, Idaho Code, has once been registered and during the year of that registration increases the maximum gross weight, the higher fee due for the weight increase shall be offset by the fee already paid. The fee already paid and the fee due shall be prorated by one-twelfth (1/12) for each month already expired in the registration year. The difference between the two (2) fees shall be the balance due for the remainder of the registration

year. If an owner changes the weight during a registration year, the weight change shall not result in a refund of the fees already paid.

(2) If a motor vehicle is not operated on any highway during the first months of a calendar year, the owner may at any time thereafter be registered for the remainder of the year on payment of all fees, rounded to the nearest whole dollar, as provided in this chapter, less one-twelfth (1/12) of such fees for each full calendar month which has expired prior to registering, but in no event shall the minimum fee be less than five dollars (\$5.00). [I.C., § 9-127b, as added by 1953, ch. 261, § 13, p. 425; am. 1955, ch. 58, § 6, p. 108; am. and redesign. 1988, ch. 265, § 99, p. 549; am. 1992, ch. 35, § 23, p. 99; am. 1998, ch. 392, § 14, p. 1197; am. 2000, ch. 418, § 11, p. 1331; am. 2007, ch. 22, § 2, p. 39.]

STATUTORY NOTES

Amendments. — The 2007 amendment, by ch. 22, substituted “changes” for “decreases” and “change” for “decrease” in the last sentence of subsection (1).

Compiler's Notes. — This section was formerly compiled as § 49-129 and was amended and redesignated by § 99 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 20 of S.L. 2000, ch. 418 provides: “Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he

has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later.” The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 11 of ch. 418 became effective October 1, 2000.

49-438. Penalty for exceeding registered gross weight or permitted maximum registered gross weight. — (1) Any person who shall operate, cause, permit, or suffer to be operated upon any highway any vehicle or combination of vehicles with a gross weight in excess of the registered maximum gross weight of the vehicle specified in this title shall have committed a violation under the infraction or misdemeanor provisions of section 49-1013, Idaho Code.

(2) Any person who shall operate, cause, permit, or suffer to be operated upon any highway any vehicle or combination of vehicles with a gross weight in excess of the registered maximum gross weight not authorized by a valid permit issued pursuant to section 49-432, Idaho Code, shall have committed a violation under the infraction or misdemeanor provisions of section 49-1013, Idaho Code. [I.C., § 49-127e, as added by 1953, ch. 261, § 16, p. 425; am. and redesign. 1988, ch. 265, § 100, p. 549; am. 1991, ch. 295, § 5, p. 769; am. 1993, ch. 273, § 3, p. 913; am. 2000, ch. 418, § 12, p. 1331; am. 2001, ch. 355, § 4, p. 1242.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-132 and was amended and redesignated by § 100 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 6 of S.L. 1991,

ch. 295 declared an emergency. Approved April 4, 1991.

Section 20 of S.L. 2000, ch. 418 provides: “Sections 2 through 18 of this act shall be in full force and effect on and after October 1,

2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State

so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 12 of ch. 418 became effective October 1, 2000.

JUDICIAL DECISIONS

ANALYSIS

Construction.
Double jeopardy.
Elements of offense.

Construction.

The language contained in this section is clear, explicit and unambiguous and will not sustain the construction contended for by respondent that the intent of the legislature was to penalize one who operates a vehicle upon the highways when its maximum gross weight exceeds the declared and registered maximum gross weight. The court is not at liberty to enlarge, by construction, the words to include other conduct when it is not fairly included in the plain language of the act. *State v. Lawler*, 81 Idaho 171, 338 P.2d 264 (1959).

Double Jeopardy.

Defendant's three separate fines for his three weight violations did not violate double jeopardy, because defendant's registered gross weight violation was a separate offense from each of defendant's two axle weight violations under the *Blockburger* test, and the Idaho Legislature clearly authorized cumulative punishment for defendant's two axle weight violations; a registered gross weight violation required the State to prove that

defendant had exceeded the weight at which he registered his tractor-trailer, and the elements to prove defendant exceeded the allowable weight limits for his tandem drive axle and his four axle bridge did not require the State to prove the defendant's registered weight. *State v. Bryan*, — Idaho —, 181 P.3d 538 (Ct. App. 2008).

Elements of Offense.

The conduct complained of on the part of the truck and trailer combination was the operation of a vehicle or combination of vehicles upon the highways of the state carrying a weight in excess of the declared or registered gross weight, but since under this section the failure to pay either the required registration fee or the use fee was a necessary element of such offense or violation and the admitted fact that the driver had at the time of the alleged violation paid the maximum registration fee would bar a conviction of an offense punishable under this section. *State v. Lawler*, 81 Idaho 171, 338 P.2d 264 (1959).

Cited in: *State v. Phillips*, 117 Idaho 23, 784 P.2d 353 (Ct. App. 1989).

49-439. Audit guidelines. — (1) The state tax commission on behalf of the department may audit an owner of motor vehicles subject to fees pursuant to this chapter.

(2) Every owner whose fees are computed as specified in section 49-434 or 49-435, Idaho Code, except those registering under subsection (8)(c) of section 49-434, Idaho Code, for over fifty thousand (50,000) miles driven, shall maintain records and permit the state tax commission to inspect the records upon request to substantiate that the actual miles traveled, if using a mileage schedule in subsection (8)(c) of section 49-434, Idaho Code, are less than the maximum mileage schedule.

(3) When the records are maintained outside this state by owners engaged in transportation in this state, the owner shall reimburse the state tax commission for reasonable expenses incurred by the state tax commission in conducting audits of those records and accounts at the out-of-state location. The owner or the state tax commission may request that the

records be presented at a place within the state designated by the state tax commission. The records must be presented by a representative of the owner who is familiar with the records and who is responsible for the safekeeping of the records.

(4) Every owner is required to maintain records for the current year and the three (3) years immediately preceding. If an assessment has been made, such audit assessment may be collected by a proceeding in court within a period of three (3) years after the assessment or a final order entered pursuant to subsection (7) of this section.

(5) An owner who fails to maintain records as required by the provisions of this section may have the registration of all vehicles registered under section 49-434 or 49-435, Idaho Code, suspended until such time as adequate records as required by the provisions of this section are provided. In the event that the owner does not produce records, the state tax commission may generate a notice of deficiency based on an estimate of the operation. The state tax commission shall develop a methodology to be used to calculate a notice of deficiency based on an estimate of the operation. That methodology shall be in accordance with the international registration plan and international fuel tax agreement guidelines.

(6) The state tax commission shall provide the carrier with notice of deficiency and the opportunity to use the appeals process prior to a suspension. An owner may contest a notice of deficiency made by the state tax commission within thirty (30) days from receipt of the notice by filing an appeal in accordance with sections 63-3045, 63-3045B, 63-3047, 63-3048 and 63-3049, Idaho Code.

(7) An owner, as identified by the state tax commission, who fails to pay any audit assessment due is subject to suspension of vehicle registrations. A reinstatement fee of forty dollars (\$40.00) shall be imposed in addition to a penalty of ten percent (10%) of the amount of audit assessment determined to be due, plus interest of one percent (1%) of the amount of the audit assessment due for each month or fraction thereof after the original registration fee became due. An order suspending the vehicle registration shall be mailed to the owner by the department. The suspension shall be canceled if the payment due is made, plus penalty and interest, along with the reinstatement fee of forty dollars (\$40.00) per carrier within fifteen (15) days after receipt of the suspension order. The reinstatement fees shall be deposited to the state highway account. The department shall not reregister or permit a vehicle to operate on a trip permit until all audit assessments, penalties and interest have been paid. [I.C., § 49-439, as added by 1993, ch. 138, § 1, p. 341; am. 2000, ch. 418, § 13, p. 1331; am. 2004, ch. 234, § 2, p. 686.]

STATUTORY NOTES

Cross References. — State highway account § 40-702.

Effective Dates. — Section 20 of S.L. 2000, ch. 418 provides: "Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon

certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State

of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received

the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 13 of ch. 418 became effective October 1, 2000.

49-440. [Reserved.]

49-441. Owner to secure registration from a county assessor or from board. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1988, ch. 265, § 101, p. 549; am. 1989, ch. 407, § 1, p. 995; am. 1991, ch. 285,

§ 3, p. 733, was repealed by S.L. 1992, ch. 35, § 24.

49-442. Application for registration — Receipt for fee — Record of applicants. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1988, ch. 265, § 102, p. 549; am.

1990, ch. 13, § 1, p. 23, was repealed by S.L. 1992, ch. 35, § 25.

49-443. License plates to be furnished by department — Form and contents. — (1) The assessor or the department shall furnish to every owner whose vehicle is registered or licensed by that office, pursuant to sections 49-402 and 49-402A, Idaho Code, one (1) license plate for vehicles registered under the provisions of section 49-406, 49-406A or 49-408, Idaho Code, or a motorcycle, trailer, truck-tractor, or semitrailer; one (1) restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes licensed pursuant to this chapter; and two (2) license plates for every other motor vehicle. If a vehicle is issued one (1) plate only, that plate shall be displayed in accordance with the provisions of section 49-428, Idaho Code. For vehicles registered under the provisions of section 49-407, Idaho Code, the applicant shall provide one (1) plate to be displayed on the rear of the vehicle.

Commencing January 1, 1992, the color and design of the plates shall be comparable to the color and design of the statehood centennial issue of license plates with blue numerals and letters on a multicolored red, white and blue background. Each license plate must bear upon its face the inscriptions "Famous Potatoes" and "Scenic Idaho." The restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes shall be a white background with black numerals and letters, with "Idaho Restricted Vehicle" and the year of its expiration on its face and no other inscription. The restricted vehicle license plate shall be the same size required for the motorcycle license plate.

Every license plate shall have displayed upon it the registration number assigned to the vehicle and its owner and the name "Idaho" which may be abbreviated. The plates issued under the provisions of section 49-402(1), Idaho Code, and the required letters and numerals, including an identifi-

cation of the county in which the motor vehicle to which the plates will be affixed is registered, shall be of sufficient size to be plainly readable from a distance of seventy-five (75) feet during daylight, and each license plate and registration sticker shall be treated with a fully reflectorized material according to specifications prescribed by the board.

(2) License plates shall be valid for a period of seven (7) years beginning with the date of issuance of new plates. At the end of the sixth year, the registered owner shall receive notice of the date upon which the plates will expire. The department shall implement a plate-number reservation program beginning prior to the 1999 plate issue and following once every seven (7) years thereafter, for a limited plate-number sequence in each county which chooses to offer a reservation program. Requests for license plate number reservations shall be submitted to the county during the open reservation period established by the department. The department may charge a minimal fee as determined by the board to recover costs to the department for reservation of license plate numbers. The provisions of this subsection (2) shall not apply to any license plates issued pursuant to the provisions of section 49-434(4), Idaho Code.

(3) If a license plate number has expired as provided in subsection (2) of this section and the number was not reserved, or if the vehicle registration is not renewed within sixty (60) days of its expiration, the plate number shall be available for use by another registrant. To obtain a specific number in the recycled license plate number file, the owner of a registered vehicle shall pay a one (1) time fee as determined by rule of the board.

The provisions of this subsection shall apply only to vehicles registered under the provisions of section 49-402(1), Idaho Code, and section 49-434(1), Idaho Code, as it applies to noncommercial vehicles.

(4) License plates issued for vehicles required to be registered in accordance with the provisions of sections 49-402 and 49-402A, Idaho Code, shall be issued color coded registration validation stickers showing the year of registration. Each registration validation sticker shall bear a number from 1 through 12, which number shall correspond to the month of the calendar year in which the registration of the vehicle expires and shall be affixed to the lower right-hand corner of the plates within the outlined rectangular area.

(5) License plates for utility trailers registered under the provisions of section 49-402A, Idaho Code, which are issued for five (5) or ten (10) years and license plates for rental utility trailers registered under the provisions of section 49-434, Idaho Code, which are issued for up to five (5) years, shall use the design in effect on the date of manufacture. If a design change occurs, plates from the effective date of the design change shall be manufactured using the new design. Unexpired plates need not be reissued to conform to a design change.

(6) For license plates which are lost, stolen, mutilated, or illegible, the owner shall apply for a duplicate or substitute. The assessor shall also furnish for each registration, and to validate the license plate, a pressure-sensitive, uniquely-numbered registration sticker, except for trailers and semitrailers registered under the nonexpiring provisions in section 49-434,

Idaho Code. License plates issued for state, county and city motor vehicles shall be permanent and remain on the vehicle for which issued from year to year, and need no renewal or validation sticker.

(7) Whenever a vehicle is completely destroyed by fire or accident and the operator submits satisfactory proof of that destruction to the department or appropriate assessor's office, the registration use increment and fees shall be transferred to the replacement vehicle for a service transfer fee of five dollars (\$5.00), which fee shall be retained by the registering authority. None of the original fees shall be subject to refund.

(8) The department shall furnish to every owner whose vehicle is registered under sections 49-434 and 49-435, Idaho Code, a pressure-sensitive, uniquely-numbered registration sticker to validate the license plate, provided however, the provisions of this subsection (8) shall not apply to trailers and semitrailers registered under the provisions of section 49-434(4), Idaho Code.

(9) The board shall have authority to require the return to the department of all license plates and registration stickers upon termination of the lawful use of them by the owner.

(10) The board may promulgate such rules as are necessary to implement the provisions of this section. [I.C., § 49-443, as added by 1992, ch. 186, § 3, p. 577; am. 1996, ch. 396, § 2, p. 1326; am. 1997, ch. 129, § 10, p. 382; am. 1998, ch. 392, § 15, p. 1197; am. 2001, ch. 73, § 12, p. 154; am. 2007, ch. 23, § 2, p. 41; am. 2008, ch. 409, § 6, p. 1132.]

STATUTORY NOTES

Prior Laws. — A former § 49-113 was amended and redesignated by § 103 of S.L. 1988, ch. 265 to become § 49-443. Former § 49-443, which comprised 1927, ch. 224, § 113, p. 374; I.C.A., § 48-113; am. 1947, ch. 137, § 1, p. 333; am. 1951, ch. 119, § 5, p. 273; am. 1953, ch. 261, § 4, p. 425; am. 1955, ch. 212, § 1, p. 444; am. 1965, ch. 4, § 1, p. 6; am. 1967, ch. 175, § 3, p. 583; am. 1967, ch. 428, § 1, p. 1245; am. 1969, ch. 70, § 1, p. 214; am. 1974, ch. 27, § 89, p. 811; am. 1976, ch. 5, § 1, p. 16; am. 1982, ch. 95, § 6, p. 185; am. 1984, ch. 195, § 9, p. 445; am. 1985, ch. 53, § 1, p. 103; am. 1986, ch. 292, § 1, p. 736; am. 1987, ch. 185, § 1, p. 364; am. 1988, ch. 203, § 1, p. 383; am. 1988, ch. 265, § 103, p. 549; am. 1989, ch. 310, § 19, p. 769; am. 1989, ch. 318, § 7, p. 817; am. 1990, ch. 197, § 2, p. 439; am. 1991, ch. 209, § 1, p. 492, was repealed by S.L. 1992, ch. 186, § 2.

Amendments. — The 2007 amendment, by ch. 23, in subsection (2), added the last sentence; in subsection (5), deleted "trailers" following "license plates for", deleted "and semi-trailers" following "rental utility trail-

ers", and inserted "up to" preceding "five (5) years"; in subsection (6), substituted "nonexpiring" for "optional seven (7) year trailer"; and added the proviso at the end of subsection (8).

The 2008 amendment, by ch. 409, in the first sentence in the first paragraph in subsection (1), inserted "or licensed" and "one (1) restricted vehicle license plate for all-terrain vehicles, utility type vehicles and motorbikes licensed pursuant to this chapter"; and added the last two sentences in the second paragraph in subsection (1).

Legislative Intent. — Section 1 of S.L. 1996, ch. 396 read: "Legislative Intent. It is the intent of the Legislature that Idaho motor vehicle license plates shall meet the national readability standards by displaying full-sized county designators and numerals in the identification portion of the plates."

Effective Dates. — Section 3 of S.L. 1996, ch. 396 provided that the act shall be in full force and effect on January 1, 1997.

Section 11 of S.L. 1997, ch. 129 provided that the act should be in full force and effect on and after January 1, 1998.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Legislative Intent.

The legislature, by the 1969 amendment to former § 49-113, expressed its intent that notice of the expiration of the registration period should be given by means of the pressure sensitive registration sticker attached to

the license plates, and that this notice should designate the expiration of the registration period, not the calendar year during which the registration expires. *State v. Barchas*, 96 Idaho 623, 533 P.2d 744 (1975).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, §§ 58, 59.

C.J.S. — 60 C.J.S., Motor Vehicles, § 221.

49-443A. License plate reservation program. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section which comprised I.C., § 49-443A, as added by 1991, ch. 154, § 1, p. 370, was repealed by S.L. 1992, ch. 186, § 4.

49-443B. License plates for state vehicles and vehicles belonging to taxing districts. — License plates for state vehicles and vehicles belonging to taxing districts shall be permanent and shall remain on the vehicle to which it is issued until transferred to another vehicle or until it is cancelled by the department. The department shall be reimbursed by state agencies and the taxing districts for the cost of providing license plates. The department may develop rules and regulations to administer this license plate program. [I.C., § 49-443B, as added by 1992, ch. 35, § 27, p. 99.]

49-444. Recreation vehicle registration. — An applicant for a recreational vehicle registration shall be required to obtain a recreational vehicle annual license as provided in sections 49-445 through 49-448, Idaho Code, in conjunction with the registration. Truck campers need not be registered before the county assessor can issue a recreational vehicle annual license. [I.C., § 49-2801, as added by 1975, ch. 148, § 4, p. 372; am. 1986, ch. 30, § 2, p. 84; am. and redesign. 1988, ch. 265, § 104, p. 549; am. 1998, ch. 392, § 16, p. 1197.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2801 and was amended and redesignated by § 104 of S.L. 1988, ch. 265 to become this section.

49-445. Recreational vehicle annual license. — (1) There is levied and there shall be collected an annual license fee on each recreational vehicle in Idaho, except recreational vehicles in possession of a manufacturer or dealer and offered for sale or resale. If the recreational vehicle is registered as a motor vehicle under the provisions of this chapter, the annual license fee imposed in this section shall be in addition to and not in

lieu of the motor vehicle registration fees.

(2) The annual license fee imposed upon each recreational vehicle shall be eight dollars and fifty cents (\$8.50) for a market value of one thousand dollars (\$1,000) or less, and an additional five dollars (\$5.00) for each additional one thousand dollars (\$1,000) or portion of it, of market value.

(3) Payment of the annual license fee shall license the recreational vehicle for a calendar year, irrespective of the month in which it is registered, change of ownership of the vehicle, or change of county of residence of the owner. The recreational vehicle annual license shall expire midnight December 31 of each year.

(4) The license sticker shall be placed on the rear of the recreational vehicle in a manner that is completely visible and shall be kept in a legible condition at all times. [I.C., § 49-2802, as added by 1975, ch. 148, § 4, p. 372; am. 1976, ch. 23, § 1, p. 57; am. 1977, ch. 227, § 1, p. 677; am. 1985, ch. 184, § 1, p. 470; am. and redesign. 1988, ch. 265, § 105, p. 549; am. 1993, ch. 286, § 1, p. 973.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2802 and was amended and redesignated by § 105 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 4 of S.L. 1993, ch. 286 provided that the act shall be in full force and effect on January 1, 1994.

49-446. County assessor to administer and collect license fee. —

(1) The county assessor shall administer and collect the recreational vehicle annual license fee.

(2) Market value of recreational vehicles shall be determined by the county assessor according to the rules and regulations of the state tax commission. Whenever indices are available, the rules and regulations shall use any standard industry indices of retail value of recreational vehicles to determine market value. [I.C., § 49-2803, as added by 1975, ch. 148, § 4, p. 372; am. and redesign. 1988, ch. 265, § 106, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2803 and was amended and redesignated by § 106 of S.L. 1988, ch. 265 to become this section.

49-447. Department to provide identification. — The department of parks and recreation shall devise and provide to county assessors suitable identification stickers for attachment to or placement on recreational vehicles to indicate that the annual recreational vehicle license fee has been paid. The sticker shall be of suitable size and design for easy identification, and shall show the year and month of the year in which the license expires. The department shall also provide suitable license forms and all other forms required for the purpose of licensing and shall prepay all charges including mailing fees. Each recreational vehicle license shall be filed annually by the department under a distinctive number assigned to the vehicle and alphabetically under the name of the owner. [I.C., § 49-2804, as added by 1975,

ch. 143, § 4, p. 372; am. 1977, ch. 227, § 2, p. 677; am. 1982, ch. 95, § 123, p. 185; am. and redesign. 1988, ch. 265, § 107, p. 549; am. 1992, ch. 35, § 28, p. 99.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 107 of S.L. formerly compiled as § 49-2804 and was 1988, ch. 265 to become this section.

49-448. Disposition of fees. — The revenues received from the annual license fees imposed by section 49-445, Idaho Code, for recreational vehicle registration shall be paid over monthly to the county treasurer, to be distributed as follows:

(1) Two dollars (\$2.00) from each recreational vehicle license sold shall be apportioned to the county current expense fund, which shall be deemed necessary costs of collection and administration;

(2) From the balance remaining, ninety-nine percent (99%) shall be transmitted to the state treasurer for deposit in a fund known as the "state recreational vehicle fund," which is established in the state treasury, and one percent (1%) shall be distributed to the search and rescue fund created in section 67-2913, Idaho Code. [I.C., § 49-2805, as added by 1975, ch. 148, § 4, p. 372; am. 1977, ch. 227, § 3, p. 677; am. 1982, ch. 95, § 124, p. 185; am. 1984, ch. 195, § 30, p. 445; am. 1985, ch. 184, § 2, p. 470; am. 1985, ch. 253, § 7, p. 586; am. 1988, ch. 253, § 4, p. 487; am. and redesign. 1988, ch. 265, § 108, p. 549; am. 1989, ch. 310, § 20, p. 769; am. 1993, ch. 286, § 2, p. 973; am. 2000, ch. 186, § 2, p. 456.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2805 and was amended and redesignated by § 108 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 34 of S.L. 1989, ch. 310 declared an emergency and

provided that the act would become effective retroactively to January 1, 1989. Approved April 5, 1989.

Section 4 of S.L. 1993, ch. 286 provided that the act shall be in full force and effect on January 1, 1994.

OPINIONS OF ATTORNEY GENERAL

Idaho parks and recreation board could not unilaterally allocate \$25,000 from the recreational vehicle (RV) fund for the support of gateway visitor information centers; the

transfer of \$25,000 from the RV fund to gateway visitor information centers was a legislative act over which the board had no discretion. OAG 96-4.

49-449. Cancellation of registration upon notice of theft. — Whenever the owner of any motor vehicle, trailer or semitrailer which is stolen files an affidavit with a law enforcement agency alleging such fact, the department shall cancel the registration of such vehicle upon the request of the owner. [1927, ch. 244, § 21, p. 374; I.C.A., § 48-122; am. and redesign. 1988, ch. 265, § 109, p. 549; am. 1992, ch. 35, § 29, p. 99; am. 1998, ch. 392, § 17, p. 1197.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 109 of S.L. formerly compiled as § 49-122 and was 1988, ch. 265 to become this section.

49-450. Additional fee for each plate issued. — In addition to the vehicle registration fee provided by law, whenever any plate is issued for vehicle registration, there shall be charged a fee of three dollars (\$3.00) per plate, which shall be deposited into the plate manufacturing account created in section 49-450A, Idaho Code. The actual cost of producing and distributing license plates and the fifty cents (\$.50) per plate fee designated to the Idaho heritage trust for the use of the copyrighted design provided for in section 49-443(1), Idaho Code, shall be paid from the plate manufacturing account. The difference between deposits into the account and disbursements out of the account not required for future obligations shall be transferred by the state controller from the plate manufacturing account to the highway distribution account as established in section 40-701, Idaho Code, for apportionment as designated in that section. Funds designated to the Idaho heritage trust shall be matched with equal funds from other sources for funding projects designed to preserve Idaho's historic resources. [I.C., § 49-157 as added by 1967, ch. 428, § 6, p. 1245; am. 1976, ch. 103, § 1, p. 426; am. 1980, ch. 128, § 1, p. 286; am. 1982, ch. 95, § 22, p. 185; am. 1983, ch. 78, § 1, p. 1986, ch. 292, § 2, p. 736; am. and redesign. 1988, ch. 265, § 110, p. 549; am. 1989, ch. 263, § 1, p. 642; am. 1990, ch. 233, § 1, p. 666; am. 1996, ch. 397, § 1, p. 1329; am. 2005, ch. 160, § 1, p. 492.]

STATUTORY NOTES

Cross References. — Funding of Idaho heritage trust, § 67-7602B. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was formerly compiled as § 49-157 and was amended and redesignated by § 110 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 3 of S.L. 2005, ch. 160 declared an emergency. Approved March 28, 2005.

49-450A. Plate manufacturing account. — There is hereby created in the state treasury an account to be known as the "plate manufacturing account" for the purpose of paying the actual cost to produce and distribute license plates and to pay costs related to use of the centennial design on the license plate. All moneys in this account are hereby continuously appropriated to the department. Any additional funds required to pay plate production and distribution costs will be transferred by the state controller from the state highway account. [I.C., § 49-450A, as added by 1989, ch. 263, § 2, p. 642; am. 1990, ch. 233, § 2, p. 666; am. 1994, ch. 180, § 89, p. 420; am. 2005, ch. 160, § 2, p. 492.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Effective Dates. — Section 3 of S.L. 1990, ch. 233, provided that the act would become effective January 1, 1992.

Section 241 of S.L. 1994, ch. 180 provided that such act should become effective on and after the first Monday in January, 1995 [January 2, 1995] if the amendment to the Constitution of Idaho changing the name of the

state auditor to state controller [1994 S.J.R. No. 109, p. 1493] was adopted at the general election held on November 8, 1994. Since such amendment was adopted, the amendment to

this section by § 89 of S.L. 1994, ch. 180 became effective January 2, 1995.

Section 3 of S.L. 2005, ch. 160 declared an emergency. Approved March 28, 2005.

49-451. Additional fees for vehicle licensure. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which was formerly compiled as § 49-158 (I.C., § 49-158, as added by 1980, ch. 210, § 1, p. 480; am. 1981, ch. 221, § 1, p. 411; am. 1982, ch. 330, § 1, p. 837), and was amended and

redesignated as § 49-451 by S.L. 1988, ch. 265, § 111, p. 549, was repealed by S.L. 1989, ch. 310, § 21.

Section 49-158 was also repealed by S.L. 1988, ch. 201, § 1, p. 379.

49-452. Emergency medical services fee. — (1) An emergency medical services fee of one dollar and twenty-five cents (\$1.25) shall be collected in addition to each motor vehicle registration fee amount collected under the provisions of this chapter, with the exception of those vehicles proportionally registered under section 49-435, Idaho Code. Twenty-five cents (25¢) of the fee shall be retained by the county of residence for use in funding local emergency medical service costs. One dollar (\$1.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services fund established in section 56-1018, Idaho Code.

(2) For vehicles registered under the provisions of section 49-402B, Idaho Code, the fee shall be two dollars and fifty cents (\$2.50). Fifty cents (50¢) of the fee shall be retained by the county of residence for use in funding local emergency medical services costs. Two dollars (\$2.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services fund established in section 56-1018, Idaho Code. [I.C., § 49-159, as added by 1982, ch. 330, § 2, p. 837; am. 1984, ch. 195, § 20, p. 445; am. 1986, ch. 267, § 1, p. 692; am. and redesign. 1988, ch. 265, § 112, p. 549; am. 1990, ch. 139, § 1, p. 315; am. 1999, ch. 90, § 3, p. 291; am. 2001, ch. 110, § 50, p. 373.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-159 and was

amended and redesignated by § 112 of S.L. 1988, ch. 265 to become this section.

49-453. Motorcycle safety program fee. — A motorcycle safety program fee of six dollars (\$6.00) shall be collected in addition to each motorcycle registration fee assessed pursuant to section 49-402, Idaho Code. Such fees shall be deposited to the motorcycle safety program fund established in section 33-4904, Idaho Code. [I.C., § 49-453, as added by 2005, ch. 308, § 2, p. 960.]

STATUTORY NOTES

Prior Laws. — A former § 49-453, formerly compiled as § 49-131 and amended and redesignated as this section by S.L. 1988, ch.

265, comprised 1988, ch. 265, § 113, p. 549, and was repealed by S.L. 1992, ch. 35, § 30.

49-454. Project choice fee. — (1) A project choice program fee of three dollars (\$3.00) shall be collected in addition to each registration fee assessed pursuant to section 49-402(1), (2) or (3), 49-411, 49-412 or 49-434(1), Idaho Code. Such fees shall be deposited to the Idaho law enforcement fund established in section 67-2914, Idaho Code.

(2) The project choice program fee shall be collected and deposited pursuant to subsection (1) of this section for registrations for calendar year 2007 and thereafter.

(3) The project choice fee shall be used, subject to appropriation, exclusively for the purposes of creating a career ladder within the Idaho state police and to provide salaries to encourage the hiring and retention of trained and qualified employees for Idaho state police positions. [I.C., § 49-454, as added by 2006, ch. 227, § 1, p. 679.]

STATUTORY NOTES

Effective Dates. — Section 3 of S.L. 2006, ch. 227 provided that the act should take effect on and after January 1, 2007.

49-455. [Reserved.]

49-456. Violations of registration provisions. — It shall be unlawful for any person:

(1) To operate or for the owner to permit the operation upon a highway of any motor vehicle, trailer or semitrailer which is not registered and which does not have attached and displayed the license plates assigned to it for the current registration year, subject to the exemptions allowed in sections 49-426, 49-431 and 49-432, Idaho Code.

(2) To operate or for the owner to permit the operation on state and federal public lands or upon highways, or sections of highways, as permitted under section 49-426(3) and (4), Idaho Code, any all-terrain vehicle, utility type vehicle or motorbike that does not have a valid and properly displayed restricted license plate issued pursuant to this chapter and attached registration sticker issued pursuant to section 67-7122, Idaho Code, subject to the exemptions allowed in section 49-426(2), Idaho Code.

(3) To display or cause or permit to be displayed, or to have in possession any registration card or license plate knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.

(4) To lend or knowingly permit the use by one not entitled to any registration card or license plate issued to the person so lending or permitting that use.

(5) To fail or refuse to surrender to the department, upon demand, any registration card or license plate which has been suspended, canceled or revoked.

(6) To use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate, or knowingly to make a false statement or conceal a material fact or otherwise commit a fraud in any application. [1927, ch. 244, § 24, p. 374; I.C.A., § 48-125; am.

1951, ch. 119, § 9, p. 273; am. 1953, ch. 261, § 10, p. 425; am. 1969, ch. 82, § 1, p. 235; am. and redesisg. 1988, ch. 265, § 114, p. 549; am. 1992, ch. 35, § 31, p. 99; am. 2008, ch. 409, § 7, p. 1134.]

STATUTORY NOTES

Amendments. — The 2008 amendment, by ch. 409, near the end of subsection (1), deleted “and 49-433” preceding “Idaho Code”; and added subsection (2) and redesignated the subsequent subsections accordingly.

Compiler's Notes. — This section was formerly compiled as § 49-125 and was amended and redesignated by § 114 of S.L.

1988, ch. 265 to become this section.

Section 49-433, referred to in subdivision (1), was repealed by S.L. 1998, ch. 265, § 2, effective July 1, 1998.

Effective Dates. — Section 286 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

ANALYSIS

Constitutionality.
Search and seizure.
Temporary permit.

Constitutionality.

This section and § 49-301, under which defendant was prosecuted, did not unconstitutionally impair his rights to religious freedom. *State v. Crisman*, 123 Idaho 277, 846 P.2d 928 (Ct. App. 1993).

Search and Seizure.

It is not a constitutional violation for an officer to exercise his discretion to check to see if a vehicle is stolen if the license plate has been cancelled, revoked, suspended, or altered; therefore, opening the door of the vehicle to check the vehicle identification number did not rise to the level of a constitutionally prohibited search, and the officer was in a place where he had a lawful right to be when he observed the contraband. *State v. Geissler*, 134 Idaho 902, 11 P.3d 1120 (Ct. App. 2000).

Temporary Permit.

Granting of defendant's motion to suppress the physical evidence and her statements made to police during a traffic stop was correct because the proper display of a temporary permit carried with it a presumption of validity and there was evidence that the permit was visible to the officer prior to the stop. Thus, the officer stopped defendant's vehicle without reasonable suspicion of criminal activity. *State v. Salois*, — Idaho —, 160 P.3d 1279 (Ct. App. 2007).

Cited in: *State v. Fife*, 115 Idaho 879, 771 P.2d 543 (Ct. App. 1989); *State v. Bissett*, 116 Idaho 477, 776 P.2d 1196 (Ct. App. 1989); *State v. Phillips*, 117 Idaho 23, 784 P.2d 353 (Ct. App. 1989).

CHAPTER 5

VEHICLE TITLES

SECTION.

- 49-501. Titling requirements — Exemptions. [Effective until January 1, 2009.]
- 49-501. Titling requirements — Exemptions. [Effective January 1, 2009.]
- 49-501A. Application to vessel titling.
- 49-502. Delivery of certificate of title upon sale or disposition — Reassignment by dealers.
- 49-503. Issuance of certificate of title requisite to acquisition of title — Waiver or estoppel.
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SECTION.

- icates — Procedure — Identification numbers.
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- 49-506. Destruction of records.
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- 49-508. Cancellation of certificates of title —

SECTION.

- Return of registration receipts and license plates.
- 49-509. Stolen vehicles — Reporting by officers — Publication of lists — Recovered cars — Notice.
- 49-510. Liens and encumbrances — Filing — Fee — Notation on certificate — Constructive notice.
- 49-511. Cancellation or discharge of lien or encumbrance.
- 49-512. Security interests — Method of giving constructive notice exclusive.
- 49-512A. Effect of a terminal rental adjustment clause.
- 49-513. Sale of encumbered vehicle — Consent of lienholder — Effect.
- 49-514. Transfer of ownership by operation of law — Liens — Vehicles registered in foreign state — Certificates of title.
- 49-515. Lost, mutilated or illegible certificates — Duplicate certificates.
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- 49-517. Printing and form of certificates.
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- 49-519. Operation of vehicle without certificate of title — Failure to surrender certificate — Salvage certificate.
- 49-520. Refusal to issue certificate of title or register vehicle — Revocation after issuance or registration.

SECTION.

- 49-521. Dealers in vehicles — Records of purchases and sales — Possession of certificates of title — Foreign vehicles.
- 49-522. Indorsement “for junk only” on certificate when vehicle sold or transferred — Operation prohibited.
- 49-523. Procedure when department unsatisfied as to ownership or security interests — Temporary registration procedure.
- 49-524. Salvage certificate of ownership or electronic file to replace certificate of title or certificate of origin on vehicles.
- 49-525. Salvage-certified vehicle — Branded certificate of title.
- 49-526. Release of liability upon sale of vehicle.
- 49-527. Purpose of transitional ownership document.
- 49-528. Circumstances under which transitional ownership document acceptable as evidence of ownership.
- 49-529. Mandatory rejection or invalidation of transitional ownership document by department.
- 49-530. Discretionary rejection or invalidation of document by department.
- 49-531 — 49-579. [Repealed.]
- 49-580. [Reserved.]
- 49-581 — 49-591. [Amended and Redesignated.]
- 49-592, 49-592A. [Repealed.]
- 49-593 — 49-595. [Amended and Redesignated.]

49-501. Titling requirements — Exemptions. [Effective until January 1, 2009.] — (1) The provisions of this chapter shall apply to every vehicle required to be registered with the department in chapter 4, title 49, Idaho Code.

(2) In addition, the titling requirements of this chapter shall apply to the following vehicles which are not required to be registered under the provisions of chapter 4, title 49, Idaho Code:

(a) All-terrain vehicles, motorbikes, snowmobiles and utility type vehicles as defined in section 67-7101, Idaho Code, except that such vehicles having an internal combustion engine with a displacement of less than fifty (50) cubic centimeters will not be titled; and

(b) Manufactured homes as defined in section 39-4105, Idaho Code.

(3) Certain vehicles which are required to be registered under the provisions of chapter 4, title 49, Idaho Code, shall be exempt from the titling requirements of this chapter as follows:

(a) Utility trailers whose unladen weight is less than two thousand (2,000) pounds; and

(b) The board may, by rule, exempt vehicles and motor vehicles registered under the provisions of sections 49-434 and 49-435, Idaho Code, from the titling requirements of this chapter.

(4) Vehicles exempt from registration under the provisions of section 49-426, Idaho Code, are exempt from the titling requirements of this chapter, unless otherwise specifically required by the provisions of subsection (2) of this section. [1927, ch. 214, § 2, p. 298; I.C.A., § 48-402; am. 1941, ch. 144, § 2, p. 282; am. 1984, ch. 143, § 1, p. 334; am. and redesign. 1988, ch. 265, § 116, p. 549; am. 1989, ch. 358, § 1, p. 899; am. 1999, ch. 170, § 3, p. 459; am. 2006, ch. 42, § 6, p. 122; am. 2008, ch. 198, § 6, p. 642.]

STATUTORY NOTES

Prior Laws. — Former § 49-501, which comprised I.C., § 49-501, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Amendments. — The 2006 amendment, by ch. 42, substituted “motorbikes, snowmobiles and utility type vehicles” for “motorbikes and snowmobiles” in subsection (2)(a).

The 2008 amendment, by ch. 198, added the exception in subsection (2)(a).

Compiler’s Notes. — This section was

formerly compiled as § 49-402 and was amended and redesignated by § 116 of S.L. 1988, ch. 265 to become this section.

For this section as effective January 1, 2009, see the following section, also numbered § 49-501.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 4 of S.L. 1999, ch. 170 declared an emergency. Approved March 23, 1999.

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 90 et seq.

49-501. Titling requirements — Exemptions. [Effective January 1, 2009.] — (1) The provisions of this chapter shall apply to every vehicle required to be registered with the department in chapter 4, title 49, Idaho Code.

(2) In addition, the titling requirements of this chapter shall apply to the following vehicles which are not required to be registered under the provisions of chapter 4, title 49, Idaho Code:

(a) All-terrain vehicles, motorbikes, snowmobiles and utility type vehicles as defined in section 67-7101, Idaho Code, except that such vehicles having an internal combustion engine with a displacement of less than fifty (50) cubic centimeters will not be titled;

(b) Manufactured homes as defined in section 39-4105, Idaho Code; and

(c) Truck campers as defined in section 49-121, Idaho Code, that were originally constructed with an overall length of six (6) feet or longer. Titling is optional for truck campers acquired before January 1, 2009. Liens and encumbrances on truck campers that were filed with the office of the secretary of state in compliance with chapter 9, title 28, Idaho Code, prior to January 1, 2009, shall be in full force and effect until said lien or encumbrance is satisfied and released by the lienholder who perfected the original lien or encumbrance.

(3) Certain vehicles which are required to be registered under the provisions of chapter 4, title 49, Idaho Code, shall be exempt from the titling requirements of this chapter as follows:

(a) Utility trailers whose unladen weight is less than two thousand (2,000) pounds; and

(b) The board may, by rule, exempt vehicles and motor vehicles registered under the provisions of sections 49-434 and 49-435, Idaho Code, from the titling requirements of this chapter.

(4) Vehicles exempt from registration under the provisions of section 49-426, Idaho Code, are exempt from the titling requirements of this chapter, unless otherwise specifically required by the provisions of subsection (2) of this section. [1927, ch. 214, § 2, p. 298; I.C.A., § 48-402; am. 1941, ch. 144, § 2, p. 282; am. 1984, ch. 143, § 1, p. 334; am. and redesign. 1988, ch. 265, § 116, p. 549; am. 1989, ch. 358, § 1, p. 899; am. 1999, ch. 170, § 3, p. 459; am. 2006, ch. 42, § 6, p. 122; am. 2008, ch. 106, § 3, p. 300; am. 2008, ch. 198, § 6, p. 642.]

STATUTORY NOTES

Amendments. — This section was amended by two 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 106, added paragraph (2)(c).

The 2008 amendment, by ch. 198, added the exception in subsection (2)(a).

Compiler's Notes. — For this section as effective until January 1, 2009, see the preceding section, also numbered § 49-501.

Effective Dates. — Section 7 of S.L. 2008, ch. 106 provided "This act shall be in full force and effect on and after January 1, 2009."

49-501A. Application to vessel titling. — The procedures provided in this chapter shall apply to all vessel titling programs referenced in chapter 70, title 67, Idaho Code. Unless otherwise provided, any reference to "vehicle" in this chapter shall also mean "vessel." [I.C., § 49-501A, as added by 1999, ch. 298, § 2, p. 746; am. 2001, ch. 73, § 13, p. 154.]

STATUTORY NOTES

Effective Dates. — Section 6 of S.L. 1999, ch. 298 provided that the act shall be in full force and effect on and after January 1, 2000.

49-502. Delivery of certificate of title upon sale or disposition — Reassignment by dealers. — No person shall sell or otherwise dispose of a vehicle without delivery to the purchaser or transferee a certificate of title with an assignment as necessary to show title in the purchaser, nor purchase or otherwise acquire or bring into the state a vehicle except for temporary use as provided by section 49-432, Idaho Code, unless he shall obtain a certificate of title in his name in accordance with the provisions of this chapter. Any dealer holding current Idaho dealer license plates may, in lieu of having a certificate of title issued in his name, reassign any existing certificate of title issued in this state. [I.C.A., § 48-402a, as added by 1941, ch. 144, § 3, p. 282; am. and redesign. 1988, ch. 265, § 117, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-502, which comprised I.C., § 49-502, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-403 and was amended and redesignated by § 117 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Acquisition of title.

Ownership interest in title.

Acquisition of title.

Section 49-502 explicitly provides that issuance of a certificate of title is required for acquisition of title and places the burden of acquiring a certificate of title upon the buyer—not the seller. Where the defendant endorsed the certificate of title and delivered same to his ex-wife prior to the accident, he did all that was required to effect a legal transfer of his title in the vehicle prior to the accident. *Lopez v. Langer*, 114 Idaho 873, 761 P.2d 1225 (1988).

daughter, and was in the actual possession of father, the father was entitled to the title of the automobile as against an automobile dealer to whom daughter had traded the automobile, where dealer had been informed of father's ownership interest by daughter. *Latham Motors, Inc. v. Phillips*, 123 Idaho 689, 851 P.2d 985 (Ct. App. 1993).

Cited in: *Northland Ins. Co. v. Boise's Best Autos & Repairs*, 132 Idaho 228, 970 P.2d 21 (Ct. App. 1997).

Ownership Interest in Title.

Where a certificate of title to an automobile was issued in the name of both father and

RESEARCH REFERENCES

A.L.R. — Priorities as between vendor's lien and subsequent title or security interest

obtained in another state to which vehicle was removed. 42 A.L.R.3d 1168.

49-503. Issuance of certificate of title requisite to acquisition of title — Waiver or estoppel. — Except as provided in sections 49-502, 49-510 through 49-512 and 49-514, Idaho Code, no person acquiring a vehicle from the owner, whether the owner is a dealer or otherwise, shall acquire any right, title, claim or interest in or to the vehicle until he has issued to him a certificate of title to that vehicle, nor shall any waiver or estoppel operate in favor of that person against a person having possession of a certificate of title or an assignment of the certificate of the vehicle for a valuable consideration. [I.C.A., § 48-402b, as added by 1941, ch. 144, § 3, p. 282; am. and redesign. 1988, ch. 265, § 118, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-503, which comprised I.C., § 49-503, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-404 and was amended and redesignated by § 118 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Acquisition of title.

Application.

—Bankruptcy.

Conversion.

Delivery of title.

Ownership interest in title.

Acquisition of Title.

All parties to an arrangement whereby plaintiff authorized a dealer to sell a truck to the defendant, although plaintiff retained title, are held to have notice that no person may acquire any right, title, claim, or interest in a motor vehicle until the issuance of a certificate of title to the buyer. *Lux v. Lockridge*, 65 Idaho 639, 150 P.2d 127 (1944).

The fact that the automobile was registered and title thereto issued in the name of the wife does not conclusively establish the title in her as separate property, such result not being the intent or purpose of the motor vehicle act, and where there was no gift or other transfer by the husband to her and the automobile had been purchased with community funds, it became community property. *Farmers Ins. Exch. v. Wendler*, 84 Idaho 114, 368 P.2d 933 (1962).

This section explicitly provides that issuance of a certificate of title is required for acquisition of title and places the burden of acquiring a certificate of title upon the buyer—not the seller. Where the defendant endorsed the certificate of title and delivered same to his ex-wife prior to the accident, he did all that was required to effect a legal transfer of his title in the vehicle prior to the accident. *Lopez v. Langer*, 114 Idaho 873, 761 P.2d 1225 (1988).

Application.

—Bankruptcy.

This section was not applicable in bankruptcy proceeding involving avoidance, and the transfer date of a security interest, where vehicle was sold without issuance of a new title to the dealer, through the dealer's reassignment of an existing certificate of title. *Fitzgerald v. First Sec. Bank (In re Walker)*,

161 Bankr. 484 (Bankr. D. Idaho 1993), aff'd, 178 Bankr. 497 (D. Idaho 1994), aff'd, 77 F.3d 322 (9th Cir. 1996).

Conversion.

Where defendant gave plaintiffs an option to purchase two oil trucks, and at the same time gave them possession of the trucks under an operation contract, and defendant thereafter seized trucks without process, plaintiffs had sufficient right of possession to sue defendant for conversion though defendant had not issued certificates of title to the plaintiff. *Johnson v. Bennion*, 70 Idaho 33, 211 P.2d 148 (1949).

Delivery of Title.

In a case where dealer, under agreement with plaintiff to sell new trucks and to buy plaintiff's old truck, allowed defendant to buy plaintiff's old truck although no title was delivered, the purchaser was not a bona fide purchaser for value and the contract between plaintiff and the dealer may be shown to defeat defendant's right. *Lux v. Lockridge*, 65 Idaho 639, 150 P.2d 127 (1944).

Ownership Interest in Title.

Where a certificate of title to an automobile was issued in the name of both father and daughter, and was in the actual possession of father, the father was entitled to the title of the automobile as against an automobile dealer to whom daughter had traded the automobile, where dealer had been informed of father's ownership interest by daughter. *Latham Motors, Inc. v. Phillips*, 123 Idaho 689, 851 P.2d 985 (Ct. App. 1993).

Cited in: *Northland Ins. Co. v. Boise's Best Autos & Repairs*, 132 Idaho 228, 970 P.2d 21 (Ct. App. 1997).

49-504. Applications to department for certificates — Procedure — Identification numbers. — (1) Application for a certificate of title shall be made upon a form furnished by the department and shall contain a full description of the vehicle including the make, identification numbers, and the odometer reading at the time of sale or transfer, and whether the vehicle is new or used, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, and the name and address of the person to whom the certificate of title shall be delivered, and any other

information as the department may require. The application shall be filed with the department, and if a certificate of title has previously been issued for that vehicle in this state, shall be accompanied by the certificate of title duly assigned, unless otherwise provided for in this chapter. The department may promulgate rules to provide for exceptions to the odometer requirement.

(2) If a certificate of title has not previously been issued for the vehicle in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or a duly certified copy thereof, or by a certificate of title, bill of sale or other evidence of ownership required by the law of any other state from which the vehicle was brought into this state, and a vehicle identification number inspection completed by any city, county or state peace officer or other special agent authorized by the department.

(3) In the case of a new vehicle being titled for the first time, no certificate of title or registration shall be issued unless the application is indorsed by a franchised new vehicle dealer licensed to sell a new vehicle. Each application shall be accompanied by a manufacturer's certificate of origin or manufacturer's statement of origin executed by the manufacturer and delivered to his agent or his franchised vehicle dealer. The certificate or statement of origin shall be in a form prescribed by the board and shall contain the year of manufacture or the model year of the vehicle, the manufacturer's vehicle identification number, the name of the manufacturer, the number of cylinders, a general description of the body, if any, and the type or model. Upon sale of a new vehicle, the manufacturer, his agent or franchised dealer shall execute and deliver to the purchaser an assignment of the certificate or statement, together with any lien or encumbrance to which the vehicle is subject.

(4) The department shall retain the evidence of title presented by the applicant and on which the certificate of title is issued. The department shall maintain an identification numbers index of registered vehicles, and upon receiving an application for a certificate of title, shall first check the identification number shown in the application against the index. The department, when satisfied that the applicant is the owner of the vehicle and that the application is in proper form, shall issue in the name of the owner of the vehicle a certificate of title bearing a title number, the date issued and a description of the vehicle as determined by the department, together with a statement of the owner's title and of all liens or encumbrances upon the vehicle, and whether possession is held by the owner under a lease, contract or conditional sale, or other like agreement.

(5) In all cases of transfer of vehicles the application for certificates of title shall be filed within thirty (30) calendar days after the delivery of the vehicles. Licensed dealers need not apply for certificate of title for vehicles in stock or when they are acquired for stock purposes.

(6) In the case of the sale of a vehicle by a dealer to a general purchaser or user, the certificate of title shall be obtained in the name of the purchaser by the dealer upon application signed by the purchaser. If a lien is to be recorded, the title documentation as required in this section shall be

submitted to the department by the dealer or the lienholder upon application signed by the purchaser. A copy of this application shall be given to the purchaser to be used as a seventy-two (72) hour temporary permit. In all other cases the certificates shall be obtained by the purchaser and the seller's bill of sale shall serve as a seventy-two (72) hour permit. The seventy-two (72) hour time period for temporary permits shall be calculated excluding weekend days and legal holidays observed by the state of Idaho. This temporary permit allows operation of any noncommercial vehicle or unladen commercial vehicle or vehicle combination without license plates for the period of time specified in the permit. A laden commercial vehicle or vehicle combination may also operate without license plates for the period of time specified in the temporary permit provided that the owner or operator has also obtained a permit issued under the provisions of section 49-432, Idaho Code.

(7) If the vehicle has no identification number, then the department shall designate an identification number for that vehicle at the time of issuance of the certificate of title. The identification number shall be permanently affixed to or indented upon the frame of the vehicle and legibly maintained by the owner at all times while a certificate of title to the vehicle shall be issued and outstanding. [I.C.A., § 48-402c, as added by 1941, ch. 144, § 3, p. 282; am. 1949, ch. 213, § 2, p. 452; am. 1955, ch. 71, § 4, p. 138; am. 1974, ch. 27, § 120, p. 811; am 1980, ch. 267, § 1, p. 702; am. 1982, ch. 95, § 60, p. 185; am. 1984, ch. 143, § 2, p. 334; am. 1987, ch. 195, § 1, p. 405; am. and redesign. 1988, ch. 265, § 119, p. 549; am. 1989, ch. 35, § 1, p. 44; am. 1991, ch. 153, § 1, p. 361; am. 1993, ch. 321, § 1, p. 1179; am. 2000, ch. 55, § 1, p. 109; am. 2000, ch. 418, § 14, p. 1331.]

STATUTORY NOTES

Prior Laws. — Former § 49-504, which comprised I.C., § 49-504, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-405 and was amended and redesignated by § 119 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 2 of S.L. 1993, ch. 321 declared an emergency. Approved March 31, 1993.

Section 2 of S.L. 2000, ch. 55 provided that the act shall be in full force and effect on and after July 1, 2000.

Section 20 of S.L. 2000, ch. 418 provides: "Sections 2 through 18 of this act shall be in

full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 14 of ch. 418 became effective October 1, 2000.

JUDICIAL DECISIONS

ANALYSIS

Effect of failure to note lien.
Laches.

Effect of Failure to Note Lien.

Where the lien creditor failed to insure that a proper certificate of title to a snowmobile was issued and that its lien was noted on that certificate, his security interest was avoidable by the plaintiff in bankruptcy proceedings. *Fitzgerald v. American Gen. Fin., Inc.* (In re Psalto), 225 Bankr. 753 (Bankr. D. Idaho 1998).

Laches.

Where association of automobile dealers purchased a car from one of its members for

use as a training car for a high school, and the school subsequently returned the car to the association, who turned car over to seller for purpose of alteration and sale, and seller resold car to defendant who failed to demand a certificate of title but paid full purchase price, and association's president secured a new title by filling in his name as assignee or purchaser, the association was not entitled to recover possession of car from defendant. *Dissault v. Evans*, 74 Idaho 295, 261 P.2d 822 (1953).

49-504A. Penalty for late filing — Transfer of certificate of title — Disposition of moneys. — (1) When a transfer of ownership arises, a penalty of twenty dollars (\$20.00) for presentation of a previously issued certificate of title shall be assessed against the new owner when the presentation for transfer of title occurs more than thirty (30) days after the vehicle was transferred.

All fines collected under the provisions of this section shall be distributed to the county current expense fund.

(2) When a licensed Idaho vehicle dealer, or entity exempted from licensing as defined in section 49-105(1), Idaho Code, either takes possession of a vehicle for the purpose of resale or transfers ownership of that vehicle, no penalty shall be assessed.

(3) When a person acquires ownership of a vehicle in another state, the thirty (30) day filing requirement shall begin upon initial entry of the vehicle into the state of Idaho.

(4) Vehicles acquired prior to July 1, 1989, and all-terrain vehicles, motorbikes and snowmobiles acquired prior to January 1, 1991, are specifically exempt from this penalty. [I.C., § 49-504A, as added by 1989, ch. 35, § 2, p. 44; am. 1990, ch. 369, § 1, p. 1007; am. 1991, ch. 143, § 2, p. 361.]

49-505. Issuance of certificates of title by department — Delivery — Electronic file for lienholders. — Certificates of title shall be printed by the department. The original copy shall be delivered to the applicant if there are no liens or encumbrances on the certificate. If there are liens or encumbrances recorded, the certificate shall be delivered or mailed to the holder of the lien or encumbrance who is first in time, on the date of the application.

In place of physically issuing a paper certificate of title, the department may create a paperless electronic record of title and lien filing and suspend the requirement to issue a certificate of title if the department and the lienholder enter into a written agreement authorizing the creation of the electronic record of the certificate of title. [I.C.A., § 48-402d, as added by 1941, ch. 144, § 3, p. 282; am. 1943, § 1, p. 86; am. 1974, ch. 27, § 121, p. 811; am. 1982, ch. 95, § 61, p. 185; am. and redesign. 1988, ch. 265, § 120, p. 549; am. 1991, ch. 153, § 2, p. 361; am. 1993, ch. 298, § 1, p. 1097.]

STATUTORY NOTES

Prior Laws. — Former § 49-505, which comprised I.C., § 49-505, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-406 and was amended and redesignated by § 120 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highways Traffic, §§ 30, 31.

C.J.S. — 60 C.J.S., Motor Vehicles, § 90 et seq.

49-506. Destruction of records. — Records pertaining to certificates of title used to record each title transaction shall be retained a minimum of twenty (20) years, after which time they may be destroyed. The records shall be maintained so as to permit the tracing of title of the vehicles designated. [I.C.A., § 48-402f, as added by 1941, ch. 144, § 3, p. 282; am. 1974, ch. 27, § 122, p. 811; am. 1977, ch. 49, § 1, p. 90; am. 1982, ch. 95, § 63, p. 185; am. 1985, ch. 171, § 1, p. 450; am. and redesisg. 1988, ch. 265, § 121, p. 549; am. 1991, ch. 153, § 3, p. 361; am. 2001, ch. 73, § 14, p. 154.]

STATUTORY NOTES

Prior Laws. — Former § 49-506, which comprised I.C., § 49-506, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-408 and was amended and redesignated by § 121 of S.L. 1988, ch. 265 to become this section.

49-507. Departmental regulations for transfer of vehicles — Appointment of deputies and assistants. — Procedure for the transfer of vehicles, and the issuance of certificates of title not otherwise expressly provided for by this chapter, may be provided for by regulations issued by the department, and in addition the director shall appoint all necessary personnel to carry out the provisions of this chapter. [I.C.A., § 48-402g, as added by 1941, ch. 144, § 3, p. 282; am. and redesisg. 1988, ch. 265, § 122, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-507, which comprised I.C., § 49-507, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-409 and was amended and redesignated by § 122 of S.L. 1988, ch. 265 to become this section.

49-508. Cancellation of certificates of title — Return of registration receipts and license plates. — (1) If it appears that a certificate of title has been improperly issued, the department shall, after notice and hearing, cancel the certificate. The notice shall be served in person or by first class mail to the person to whom that certificate of title was issued, as well as any lienholders appearing thereon. The holder of the certificate of title

shall return it to the department upon cancellation, but the cancellation of any certificate of title shall not affect the validity of any lien recorded on it.

(2) If a receipt of registration has been issued to the holder of a canceled certificate of title, the department shall immediately cancel it and demand the return of the receipt of registration and license plates, and the holder of the receipt of registration and license plates shall immediately return them to the department. [I.C.A., § 48-402h, as added by 1941, ch. 144, § 3, p. 282; am. 1974, ch. 27, § 123, p. 811; am. 1982, ch. 95, § 64, p. 185; am. and redesisg. 1988, ch. 265, § 123, p. 549; am. 1991, ch. 153, § 4, p. 361; am. 2003, ch. 157, § 3, p. 442.]

STATUTORY NOTES

Prior Laws. — Former § 49-508, which comprised I.C., § 49-508, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-410 and was amended and redesignated by § 123 of S.L. 1988, ch. 265 to become this section.

49-509. Stolen vehicles — Reporting by officers — Publication of lists — Recovered cars — Notice. — (1) It shall be the duty of every sheriff, chief of police, constable, officer of the Idaho state police, or officer having knowledge of a stolen vehicle, to immediately furnish the Idaho state police with full information in connection therewith, and it shall be the duty of the Idaho state police whenever it shall receive a report of the theft or conversion of a vehicle, whether the same has been registered or not, and whether owned in this state or any other state, to make a distinctive record of it together with the make and manufacturer's serial number, and file the same in numerical order of the manufacturer's serial number with the index records of the vehicles of the same make.

(2) The Idaho state police shall prepare a report listing vehicles stolen and recovered as disclosed by reports submitted to it, and the report shall be distributed as deemed advisable. At least once each month the Idaho state police shall furnish reports of stolen and recovered vehicles to every county sheriff and the police department in every municipality of over three thousand (3,000) population within this state, and shall transmit copies of the reports to the motor vehicle departments of other states. In the event of the receipt by the Idaho state police of a certificate of title to a stolen vehicle, the Idaho state police shall immediately notify the owner, and if upon investigation it appears that the certificate of title was improperly issued, the transportation department shall immediately cancel it. In the event of the recovery of a stolen or converted vehicle the owner shall immediately notify the Idaho state police, which shall cause the record of the theft or conversion to be removed from its file. [I.C.A., § 48-402i, as added by 1941, ch. 144, § 3, p. 282; am. 1982, ch. 95, § 65, p. 185; am. and redesisg. 1988, ch. 265, § 124, p. 549; am. 1991, ch. 153, § 5, p. 361; am. 1995, ch. 116, § 27, p. 386; am. 2000, ch. 469, § 115, p. 1450.]

STATUTORY NOTES

Prior Laws. — Former § 49-509, which comprised I.C., § 49-509, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was

formerly compiled as § 49-411 and was amended and redesignated by § 124 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 30 of S.L. 1995, ch. 116 declared an emergency. Approved March 14, 1995.

49-510. Liens and encumbrances — Filing — Fee — Notation on certificate — Constructive notice. — (1) No lien or encumbrance on any vehicle registered under the laws of this state created subsequent to December 31, 1986, irrespective of whether such registration was effected prior or subsequent to the creation of the lien or encumbrance, shall be perfected as against creditors or subsequent purchasers or encumbrancers without notice until the holder of the lien or encumbrance, or his successor, agent or assignee, has complied with the requirements of section 49-504, Idaho Code, and has filed the properly completed title application and all required supporting documents with the department or an agent of the department.

(2) When the holder of a lien or encumbrance, his successor, agent or assignee, has filed with the department or agent of the department a properly completed title application and supporting documents as required by section 49-504, Idaho Code, it shall be the duty of the department or agent of the department to file the same, endorsing on the title application the date of receipt. A lien is perfected as of the date of the filing of a properly completed application with the department or an agent of the department.

(3) When the department is satisfied as to the genuineness and regularity of the documents submitted, it shall issue a new certificate of title or create a paperless electronic record of the title and lien filing when substantiated by a written agreement as provided in section 49-505, Idaho Code. The title shall contain the name of the owner of the vehicle, the name and address of each holder of a lien or encumbrance, and a statement of all liens or encumbrances which have been filed with the department, together with the date of each lien or encumbrance and the date received by the department or agent of the department. The filing of a lien or encumbrance and the notation of it shall be a condition of perfection and shall constitute constructive notice of the lien or encumbrance and its contents to creditors and subsequent purchasers and encumbrancers. All liens or encumbrances so filed with the department shall be perfected and take priority according to the order in which the same are noted upon the certificate of title or entered into the electronic records of the department. [I.C.A., § 49-402], as added by 1941, ch. 144, § 3, p. 282; am. 1943, ch. 43, § 3, p. 86; am. 1945, ch. 99, § 1, p. 148; am. 1949, ch. 15, § 1, p. 15; am. 1967, ch. 272, § 23, p. 745; am. 1978, ch. 47, § 1, p. 88; am. 1982, ch. 95, § 66, p. 185; am. 1984, ch. 143, § 3, p. 334; am. 1985, ch. 180, § 1, p. 464; am. and redesign. 1988, ch. 265, § 125, p. 549; am. 1991, ch. 143, § 3, p. 336; am. 1992, ch. 143, § 1, p. 436; am. 1993, ch. 283, § 1, p. 957; am. 1993, ch. 298, § 2, p. 1097; am. 1996, ch. 364, § 1, p. 1221; am. 1998, ch. 392, § 18, p. 1197; am. 2001, ch. 73, § 15, p. 154; am. 2007, ch. 66, § 2, p. 167.]

STATUTORY NOTES

Prior Laws. — Former § 49-510, which comprised I.C., § 49-510, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-412 and was amended and redesignated by § 125 of S.L. 1988, ch. 265 to become this section.

Amendments. — This section was amended by two 1993 acts — ch. 283, § 1, effective March 31, 1993, and ch. 298, § 2, effective July 1, 1993 — which do not appear to conflict and have been compiled together.

The 1993 amendment, by ch. 283, § 1, added the subsection designation "(1)"; and added a subsection (2).

The 1993 amendment, by ch. 298, § 2, rewrote the third paragraph in this section.

The 2007 amendment, by ch. 66, designated the former second and third paragraphs of subsection (1) as subsections (2) and (3); in subsection (2), substituted "date of receipt" for "date of the creation of the lien or encumbrance" at the end of the first sentence, rewrote the second sentence, which formerly read: "A lien is perfected as of the time of its creation if the transaction is notarized and if the filing is completed with the department or an agent of the department within twenty (20) calendar days thereafter; otherwise, as of the date of the filing with the department or an agent of the department," and deleted the former last sentence, which read: "If the title application is incomplete or if the supporting documents are incomplete or missing, the title application and supporting documents as submitted will be returned to the lienholder

or his successor, agent or assignee for correction and, if the application is not resubmitted in a complete form, including completed supporting documents, to the department or to the agent of the department within twenty (20) days of their having been returned to the lienholder or his successor, agent or assignee, the original date of receipt by the department or agent of the department shall be void"; and deleted former subsection (2), which read: "The notarization requirement set out in the second paragraph of subsection (1) of this section shall not apply to transactions involving a lien in favor of a regulated lender, as defined in section 28-41-301(37), Idaho Code, or a motor vehicle dealer licensed by the Idaho transportation department."

Legislative Intent. — Section 2 of S.L. 1993, ch. 283 read: "It is hereby declared that the Idaho Legislature intends not only to exempt regulated lenders and licensed motor vehicle dealers from the [the] 'notarization' requirement for transactions occurring on and after the effective date of this act, but also to save and validate any transactions involving such lenders and dealers which occurred on and after July 1, 1992, up to and including the effective date of this act, to the extent that such transactions might be deemed to have failed the 'notarization' requirement. It is hereby declared that the perfection of liens, and the timing of such perfection, in all such transactions involving such lenders and dealers is and was not affected by the fact that any such transaction may have been improperly notarized, or not notarized at all."

Effective Dates. — Section 3 of S.L. 1993, ch. 283 declared an emergency. Approved March 31, 1993.

JUDICIAL DECISIONS

ANALYSIS

Burden of proof.

Constructive notice.

Encumbrances against foreign vehicles.

Failure to note lien.

Filing with county assessor.

Notice of statute.

Notation of assignee.

Process.

Priority of liens, notice, effect.

Reservation of title.

Burden of Proof.

In a mortgagee's action against a sheriff for conversion of a mortgaged automobile levied upon by the sheriff, plaintiff has burden of

proving allegation that a certified copy of the mortgage was filed in the department before the levy was made. *Consumers Credit Co. v. Manifold*, 65 Idaho 238, 142 P.2d 150 (1943).

Constructive Notice.

When there is failure to comply with this section, there is no "constructive notice" to others of the existence of the mortgage. *Consumers Credit Co. v. Manifold*, 65 Idaho 238, 142 P.2d 150 (1943).

Encumbrances Against Foreign Vehicles.

The filing required by this section is limited to encumbrances "on any vehicle registered under the laws of this state," there being no provision in the law expressly providing that a foreign mortgage or contract creating an encumbrance upon a motor vehicle shall not be effective in this state until it is so filed. *Pacific Fin. Corp. v. Axelsen*, 84 Idaho 70, 368 P.2d 430 (1962).

Failure to Note Lien.

Where the lien creditor failed to insure that a proper certificate of title to a snowmobile was issued and that its lien was noted on that certificate, his security interest was avoidable by the plaintiff in bankruptcy proceedings. *Fitzgerald v. American Gen. Fin., Inc.* (In re Psalto), 225 Bankr. 753 (Bankr. D. Idaho 1998).

Filing with County Assessor.

Where an automobile dealer did not produce a manufacturer's statement of origin until July 4, despite repeated requests of a debtor in bankruptcy and creditor bank, and the debtor filed the statement, the security agreement and application for title with a county assessor on July 8, with the state department of law enforcement on July 23, which issued the certificate of title showing the debtor's lien on November 3, the debtor's lien was perfected upon delivery of the documentation to the county assessor since the department treats the date of filing with the assessor as the date received by the department for purposes of this section, and since other sections of the motor vehicle code make the various assessors of Idaho counties the agent for the department for purposes of carrying out its duties under Title 49. *Fitzgerald v. Union Bank* (In re Brimhall), 13 Bankr. 942 (Bankr. D. Idaho 1981).

Notice of Statute.

All parties to an arrangement whereby plaintiff authorized a dealer to sell a truck to defendant, although plaintiff retained title, are held to have notice that no person may acquire any right, title, claim, or interest in a motor vehicle until the issuance of a certificate of title to the buyer. *Lux v. Lockridge*, 65 Idaho 639, 150 P.2d 127 (1944).

Notation of Assignee.

So long as a new lien is not being created, once a creditor is perfected under subsection (1) of this section, it is not necessary for an assignee to re-perfect by amending or obtain-

ing a new certificate of title showing its interest. *Hergert v. Bank of the West*, 275 Bankr. 58 (Bankr. D. Idaho 2002).

Process.

According to the language of this section, not only must a lienholder file the proper paperwork with the agency to have its security interest deemed perfected under state law, but the notation of that security interest on the actual title certificate is another distinct "condition of perfection"; additionally under this section, a security interest is deemed perfected according to the date noted by the state on the title certificate. *Fitzgerald v. First Sec. Bank* (In re Walker), 161 Bankr. 484 (Bankr. D. Idaho 1993), *aff'd*, 178 Bankr. 497 (D. Idaho 1994), *aff'd*, 77 F.3d 322 (9th Cir. 1996).

The creditor must provide the lien creation date on the title certificate application in order for the state to perform its duty of noting the recording date on the title certificate; failure to note this crucial information is just as fatal to proper perfection of a lien as would be neglecting to supply the name of the lienholder. *Fitzgerald v. First Sec. Bank* (In re Walker), 161 Bankr. 484 (Bankr. D. Idaho 1993), *aff'd*, 178 Bankr. 497 (D. Idaho 1994), *aff'd*, 77 F.3d 322 (9th Cir. 1996).

Priority of Liens, Notice, Effect.

Where a judgment creditor caused an execution to be levied upon an automobile in the possession of the judgment debtor, the judgment creditor's lien attached at the time of the levy and was superior to the lien of an unregistered chattel mortgage on the automobile of which the judgment creditor had no notice at the time of the levy, notwithstanding the fact that notice of the existence of the chattel mortgage had been acquired before the time of the execution sale. *Consumers Credit Co. v. Manifold*, 65 Idaho 238, 142 P.2d 150 (1943).

Defendant purchased motor vehicle subject to plaintiff's lien where plaintiff had filed a third party claim in action whereby sheriff was selling car pursuant to writ of execution upon the car, such car having been purchased in Utah by persons residing in Utah at that time but later removing to Idaho and the conditional sales contract, having been assigned to plaintiff, such persons also executing an application to the Utah tax commission for a certificate of title giving their residence as Utah and naming plaintiff as holder of lien on the car, certificate of title being issued to such persons at Utah address subject to lien held by plaintiff, under the rule of comity. *Pacific Fin. Corp. v. Axelsen*, 84 Idaho 70, 368 P.2d 430 (1962).

The rule of comity that liens or chattel mortgages, properly perfected according to the laws of the state where executed and

where the property covered was found at that time, continue to have priority even after the removal of the property, at least if removal is without knowledge and consent of mortgagor or conditional vendor, to another state over rights and claims acquired in such latter state of purchasers from the creditors of the mortgagor or conditional vendor is not affected by this section. *Pacific Fin. Corp. v. Axelsen*, 84 Idaho 70, 368 P.2d 430 (1962).

Reservation of Title.

In a case where a dealer, under an agreement with the plaintiff to purchase new trucks, allowed the defendant to buy plaintiff's old truck, although plaintiff retained title, the purchaser was not a bona fide purchaser for value and the contract between plaintiff and the dealer may be shown to defeat the defendant's right. *Lux v. Lockridge*, 65 Idaho 639, 150 P.2d 127 (1944).

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 90 et seq.

61A C.J.S., Motor Vehicles, § 1627 et seq.

A.L.R. — Lien for towing or storage, ordered by public officer, of motor vehicle. 85 A.L.R.3d 199.

Garagemen's lien for towing and storage of motor vehicle towed from private property on which vehicle was parked without permission. 85 A.L.R.3d 240.

49-511. Cancellation or discharge of lien or encumbrance. —

When a lien or encumbrance is cancelled or discharged, the lienholder shall provide notice of such cancellation or discharge to the department. If the lienholder was holding the paper certificate of title, he shall note the cancellation or discharge on the certificate of title in the space provided, over his signature, or by some other legal document, discharging the encumbrance, and shall deliver the paper certificate of title to the owner. [I.C.A., § 48-402k, as added by 1941, ch. 144, § 3, p. 282; am. 1949, ch. 15, § 2, p. 15; am. 1978, ch. 116, § 1, p. 267; am. 1982, ch. 95, § 67, p. 185; am. and redesign. 1988, ch. 265, § 126, p. 549; am. 1991, ch. 153, § 6, p. 361; am. 1993, ch. 298, § 3, p. 1097; am. 1994, ch. 297, § 1, p. 941.]

STATUTORY NOTES

Prior Laws. — Former § 49-511, which comprised I.C., § 49-511, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was

formerly compiled as § 49-413 and was amended and redesignated by § 126 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 2 of S.L. 1994, ch. 297 declared an emergency. Approved March 31, 1994.

49-512. Security interests — Method of giving constructive notice exclusive. — The method provided in this chapter for perfection of a security interest on a vehicle is exclusive, except as to security interests in vehicles held in inventory for sale, which shall be governed by the provisions of chapter 9, title 28, Idaho Code. [I.C.A., § 48-402l, as added by 1941, ch. 144, § 3, p. 282; am. 1967, ch. 272, § 24, p. 745; am. and redesign. 1988, ch. 265, § 127, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-512, which comprised I.C., § 49-512, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L.

1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was

formerly compiled as § 49-414 and was amended and redesignated by § 127 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Certificate of title.
Notice of statute.

Certificate of Title.

If a buyer, having received no certificate of title from the seller, parts with his money before obtaining a certificate of title from the department of transportation, he runs the risk of the discovery of a perfected security interest. *Simplot v. Owens*, 119 Idaho 243, 805 P.2d 477 (Ct. App. 1990).

the defendant, although plaintiff retained title, are held to have notice that no person may acquire any right, title, claim, or interest in a motor vehicle until the issuance of a certificate of title to the buyer. *Lux v. Lockridge*, 65 Idaho 639, 150 P.2d 127 (1944).

Notice of Statute.

All parties to an arrangement whereby plaintiff authorized a dealer to sell a truck to

RESEARCH REFERENCES

C.J.S. — 61A C.J.S., Motor Vehicles, § 1656 et seq.

A.L.R. — Lien for storage of motor vehicle. 85 A.L.R.3d 199.

Priorities as between vendor's lien and subsequent title or security interest obtained in another state to which vehicle was removed. 42 A.L.R.3d 1168.

Modern view as to validity of statute permitting sale of vehicle without hearing. 64 A.L.R.3d 814.

Lien for towing or storage, ordered by public officer, of motor vehicle. 85 A.L.R.3d 199.

49-512A. Effect of a terminal rental adjustment clause. — Notwithstanding any provision of law to the contrary, a transaction involving a motor vehicle or trailer does not create a sale or security interest merely because the transaction provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon the sale or other disposition of the motor vehicle or trailer. [I.C., § 49-512A, as added by 2004, ch. 247, § 1, p. 713.]

49-513. Sale of encumbered vehicle — Consent of lienholder — Effect. — Sale of any vehicle by the owner with the knowledge and consent of the holder of any lien or encumbrance properly noted upon the certificate of title or upon the electronic records of the department, shall not render the sale void or ineffective as against that lien or encumbrance. [I.C.A., § 48-402m, as added by 1941, ch. 144, § 3, p. 282; am. 1967, ch. 272, § 25, p. 745; am. and redesi. 1988, ch. 265, § 128, p. 549; am. 1993, ch. 298, § 4, p. 1097.]

STATUTORY NOTES

Prior Laws. — Former § 49-513, which comprised I.C., § 49-513, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-415 and was amended and redesignated by § 128 of S.L. 1988, ch. 265 to become this section.

49-514. Transfer of ownership by operation of law — Liens — Vehicles registered in foreign state — Certificates of title. — In the event of the transfer of ownership of a vehicle by operation of law, as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, or execution sale, or whenever a vehicle is sold to satisfy storage or repair charges, or if the interest of the owner is terminated or the vehicle is sold under a security agreement, the department may upon the surrender of the prior certificate of title, or when that is not possible, upon presentation of satisfactory proof to the department of ownership and right to possession of the vehicle and presentation of an application for a certificate of title, issue to the applicant a certificate of title. Only an affidavit by the person or agent of the person to whom possession of the vehicle so passed, setting forth facts entitling him to possession and ownership, together with a copy of the journal entry, court order or instrument upon which the claim of possession and ownership is founded, shall be considered satisfactory proof of ownership and right of possession. If the applicant cannot produce proof of ownership he may apply directly to the department and submit any evidence as he may have, and the department shall, if it finds the evidence sufficient, issue a certificate of title to the applicant.

If from the records in the office of the department there appears to be any prior lien or liens on the vehicle, the certificate of title shall contain a statement of those liens, unless the application is accompanied by proper evidence of their satisfaction or discharge.

Upon the death of the owner of one (1) or more registered vehicles, the following heirs of the owner, to wit: the surviving spouse, the children, lawful issue of the deceased children, the parents, the brothers or sisters, or the guardian of the estate of any minor or insane or incompetent person having such relationship to the owner, if such person has a right to succeed to the property of the owner, may secure a transfer of the certificate or certificates of title of the owner to the vehicle or vehicles, upon presenting to the department the appropriate certificate or certificates of title, if available, and an affidavit of the person or persons setting forth the fact of survivorship or heirship, the names and addresses of any other heirs, that the decedent died intestate, that the decedent has no creditors, that the decedent did not leave other property necessitating probate, and if required by the department, a certificate of the death of the deceased. The department, when satisfied of the genuineness and regularity of the transfer, shall transfer the registrations and titles accordingly. [I.C.A., § 48-402n, as added by 1941, ch. 144, § 3, p. 282; am. 1955, ch. 110, § 1, p. 236; am. 1967, ch. 272, § 26, p. 745; am. 1974, ch. 27, § 124, p. 811; am. 1982, ch. 95, § 68, p. 185; am. and redesign. 1988, ch. 265, § 129, p. 549; am. 1991, ch. 153, § 7, p. 361; am. 1994, ch. 70, § 1, p. 147; am. 1998, ch. 392, § 19, p. 1197.]

STATUTORY NOTES

Prior Laws. — Former § 49-514, which comprised I.C., § 49-514, as added by 1977, ch. 152, § 2, p. 337; am. 1988, ch. 81, § 1, p. 140, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-416 and was amended and redesignated by § 129 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Notice of Statute.

All parties to an arrangement whereby plaintiff authorized a dealer to sell a truck to the defendant, although plaintiff retained title, are held to have notice that no person may

acquire any right, title, claim, or interest in a motor vehicle until the issuance of a certificate of title to the buyer. *Lux v. Lockridge*, 65 Idaho 639, 150 P.2d 127 (1944).

49-515. Lost, mutilated or illegible certificates — Duplicate certificates. — In the event any certificate of title is lost, mutilated or becomes illegible, the owner or legal representative of the owner of the vehicle, or the holder of the lien which is prior in date and time as shown by the records of the department, shall immediately make application for and may obtain a duplicate certificate of title upon the applicant furnishing information satisfactory to the department. Any certificate of title issued pursuant to this section shall have printed or stamped in ink upon its face "duplicate title". In the event of the recovery of the original certificate of title by the owner or the first lienholder, he shall immediately surrender it to the department for cancellation. [I.C.A., § 48-402o, as added by 1941, ch. 144, § 3, p. 282; am. 1953, ch. 177, § 1, p. 270; am. and redesign. 1988, ch. 265, § 130, p. 549; am. 1991, ch. 153, § 8, p. 361.]

STATUTORY NOTES

Prior Laws. — Former § 49-515, which comprised I.C., § 49-515, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-417 and was amended and redesignated by § 130 of S.L. 1988, ch. 265 to become this section.

49-516. Junked or changed vehicles — Cancellation of certificate. — Each owner of a vehicle and each person mentioned as owner in the last certificate of title when a vehicle is dismantled, destroyed or changed in a manner that it is not the vehicle described in the certificate of title, shall surrender his certificate of title to the department, and the department shall with the consent of any holders of any liens, enter a cancellation upon its records. The department upon receipt of a certified copy of an order or judgment from a court of competent jurisdiction that a partially dismantled, junked, abandoned or non-operating vehicle is a public nuisance shall cancel the certificate of title to the vehicle if there be one. Upon cancellation of a certificate of title in the manner prescribed by this section the department may cancel and destroy all certificates in that chain of title. [I.C.A., § 48-402p, as added by 1941, ch. 144, § 3, p. 282; am. 1972, ch. 240, § 1, p. 629; am. 1982, ch. 95, § 69, p. 185; am. and redesign. 1988, ch. 265, § 131, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-516, which comprised I.C., § 49-516, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-418 and was amended and redesignated by § 131 of S.L. 1988, ch. 265 to become this section.

49-517. Printing and form of certificates. — (1) All certificates of title shall be printed upon safety paper to be selected by the department, and shall be in such form as the department shall prescribe.

(2) When substantiated by a written agreement as provided in section 49-505, Idaho Code, the department may create a paperless electronic record of a certificate of title in place of issuing a paper document whenever a lien is to be recorded; however, upon written demand from the owner and payment of the fee as provided in subsection (2)(b) of section 49-202, Idaho Code, the department shall issue a paper certificate of title.

(3) In the absence of a certificate of title, the computer records of the department shall be the original title document. [I.C.A., § 48-402q, as added by 1941, ch. 144, § 3, p. 282; am. 1982, ch. 95, § 70, p. 185; am. and redesign. 1988, ch. 265, § 132, p. 549; am. 1993, ch. 298, § 5, p. 1097.]

STATUTORY NOTES

Prior Laws. — Former § 49-517, which comprised I.C., § 49-517, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-419 and was amended and redesignated by § 132 of S.L. 1988, ch. 265 to become this section.

49-518. Altering or forging certificate — Stolen cars — Destroying or altering engine or decal number — Use of fictitious name — Fraud. — It shall be a felony for any person to:

(1) Alter or forge any certificate of title or salvage certificate of ownership to a vehicle, or any assignment thereof, or any cancellation of any liens on a vehicle; or

(2) Hold or use a certificate of title or salvage certificate of ownership or assignment or cancellation knowing it to be altered or forged; or

(3) Procure or attempt to procure a certificate of title to a vehicle, or to pass or attempt to pass a certificate of title or any assignment to a vehicle, knowing or having reason to believe that the vehicle has been stolen; or

(4) Sell or offer for sale in this state a vehicle on which the motor number, manufacturer's serial number, or "repaired vehicle" or "reconstructed vehicle" decal has been destroyed, removed, covered, altered or defaced, with knowledge of that destruction, removal, covering, alteration or defacement of the motor number, manufacturer's serial number, or "repaired vehicle" or "reconstructed vehicle" decal; or

(5) Use a false or fictitious name, or give a false or fictitious address, or make a false statement in any application or affidavit required under the provisions of this chapter, or any bill of sale or sworn statement of ownership, or otherwise commits a fraud in any application; or

(6) Purport to sell or transfer a vehicle without delivering to the purchaser or transferee a certificate of title or salvage certificate of ownership duly assigned to the purchaser. [I.C.A., § 48-402r, as added by 1941, ch. 144, § 3, p. 282; am. and redesign. 1988, ch. 265, § 133, p. 549; am. 1989, ch. 285, § 5, p. 698; am. 1994, ch. 296, § 2, p. 933.]

STATUTORY NOTES

Prior Laws. — Former § 49-518, which comprised I.C., § 49-518, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-420 and was amended and redesignated by § 133 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 392.

C.J.S. — 61A C.J.S., Motor Vehicles, § 1545 et seq.

49-519. Operation of vehicle without certificate of title — Failure to surrender certificate — Salvage certificate. — It shall be unlawful, except as otherwise provided in this chapter, for a person:

(1) To operate a vehicle for which a certificate of title is required, without the certificate having been obtained in accordance with the provisions of this chapter; or

(2) To operate a vehicle for which the certificate of title has been cancelled; or

(3) Not being an enfranchised dealer, or acting upon behalf of such dealer, to acquire, purchase, hold or display for sale a new vehicle without having obtained a certificate of title as provided for in this chapter; or

(4) To fail to surrender a certificate of title or any certificate of registration or license plate upon cancellation of the same by the department, as provided by this chapter; or

(5) To fail to surrender the certificate of title to the department in connection with the destruction, dismantling or change of a vehicle in any respect that it is not the vehicle described in the certificate of title; or

(6) To sign as assignor, or for any person to have in his possession a salvage certificate or certificate of title which has been signed by the owner as assignor, without the name of the assignee and other information required on the form prescribed by the department.

(7) To violate any of the other provisions of this chapter or any laws, or rules or regulations promulgated pursuant to this title. [I.C.A., § 48-402s, as added by 1941, ch. 144, § 3, p. 282; am. 1982, ch. 95, § 71, p. 185; am. and redesign. 1988, ch. 265, § 134, p. 549; am. 1989, ch. 285, § 6, p. 698.]

STATUTORY NOTES

Prior Laws. — Former § 49-519, which comprised I.C., § 49-519, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-421 and was amended and redesignated by § 134 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 254 et seq.

61A C.J.S., Motor Vehicles, § 1422 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 242 et seq.

49-520. Refusal to issue certificate of title or register vehicle — Revocation after issuance or registration. — If the department shall determine an applicant for a certificate of title to a vehicle is not entitled to it, it shall refuse to issue a certificate or to register the vehicle, and in that event unless the department reverses its decision or its decision is reversed by a court of competent jurisdiction, the applicant shall have no further right to apply for a certificate of title or registration on the statements in the application. The department may for a like reason after notice and hearing, revoke registration already acquired or any outstanding certificate of title. The notice shall be served in person or by first class mail. An appeal may be taken from any decision of the department. [1927, ch. 214, § 8, p. 298; I.C.A., § 48-408; am. and redesign. 1988, ch. 265, § 135, p. 549; am. 1991, ch. 153, § 9, p. 361; am. 2003, ch. 157, § 4, p. 442.]

STATUTORY NOTES

Prior Laws. — Former § 49-520, which comprised I.C., § 49-520, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-422 and was amended and redesignated by § 135 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, §§ 30, 31.

C.J.S. — 60 C.J.S., Motor Vehicles, § 90 et seq.

49-521. Dealers in vehicles — Records of purchases and sales — Possession of certificates of title — Foreign vehicles. — (1) Every dealer in vehicles, trailers or semitrailers shall maintain a record in a form as prescribed by the department of every used vehicle, trailer or semitrailer bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange. The record shall contain a description of the vehicle, including the name of the manufacturer, type, serial number, odometer reading and other distinguishing marks, and whether any numbers thereon have been defaced, destroyed, or changed and shall state with reference to each vehicle the name and address of the person from whom purchased or received, when sold or otherwise disposed of by the licensee, and the name and address of the person to whom sold or delivered.

(2) Every licensee shall have in his possession a separate certificate of title assigned to him or other documentary evidence of his right to the possession of and for every vehicle in his possession. [1927, ch. 214, § 16, p. 298; I.C.A., § 48-417; am. 1933, ch. 190, § 3, p. 377; am. 1984, ch. 143, § 4, p. 334; am. and redesign. 1988, ch. 265, § 136, p. 549; am. 1991, ch. 153, § 10, p. 361.]

STATUTORY NOTES

Prior Laws. — Former § 49-521, which comprised I.C., § 49-521, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-426 and was amended and redesignated by § 136 of S.L. 1988, ch. 265 to become this section.

49-522. Indorsement “for junk only” on certificate when vehicle sold or transferred — Operation prohibited. — (1) The owner of any vehicle who sells or transfers it to another with the intention or understanding that the vehicle is not to be used as an operating unit shall, at the time of sale or transfer, indorse on the face of the certificate of title to that vehicle the words “for junk only”, and the department shall place those words on the face of each subsequent certificate of title to that vehicle.

(2) No person shall operate upon a highway any vehicle, the certificate of title to which has been so indorsed, and no person shall sell or attempt to sell that vehicle for use as an operating unit. [1957, ch. 141, §§ 1, 2, p. 233; am. 1982, ch. 95, § 73, p. 185; am. and redesign. 1988, ch. 265, § 137, p. 549; am. 1991, ch. 153, § 11, p. 361.]

STATUTORY NOTES

Prior Laws. — Former § 49-522, which comprised I.C., § 49-522, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — Section 137 of S.L. 1988, ch. 265 amended and redesignated §§ 49-431 and 49-432 to become this section.

49-523. Procedure when department unsatisfied as to ownership or security interests — Temporary registration procedure. — (1) If the department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the department may register the vehicle, but shall either:

(a) Withhold issuance of a certificate of ownership until the applicant presents documents reasonably sufficient to satisfy the department as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or

(b) As a condition of issuing a certificate of ownership, require the applicant to file with the department all documents held as to the applicant's ownership of the vehicle, together with a bond in the form prescribed by the department and executed by the applicant, or a deposit of cash in a like amount. The bond shall be in an amount equal to one and one-half (1 1/2) times the value of the vehicle, as determined by the department, and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of ownership of the vehicle, or on account of any defect in or disclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such

interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, or any cash deposit, shall be returned at the end of three (3) years, or prior to that time if the vehicle is no longer registered in this state and the current valid certificate of ownership is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

(c) As to a vehicle ten (10) years old or more since manufacture, an applicant who is a resident of the state of Idaho may file with the department, before its authorized representative, a verified statement of facts setting out in detail the manner in which the applicant came into possession of the vehicle, the establishment of ownership, and a summary of the applicant's attempts to contact any prior owners of the vehicle. Upon receipt by the department of the verified statement and all documentation relating to the applicant's possession of the vehicle, and completion of an inspection of the vehicle identification number by an authorized representative of the department, the applicant shall execute a document in the form provided by the department releasing it of any and all damages that may be suffered by the applicant, along with warranties that the applicant will pay any and all damages suffered by any person or entity as to the issuance of a title for that vehicle by the department. The department shall then issue a certificate of title to the applicant in form set out by this section. The certificate of title shall include the statement, "ISSUED ON STATEMENT OF APPLICANT", in permanent letters upon its face. The title issued pursuant to this subsection shall be presumed to indicate legal ownership of the vehicle at the end of the three (3) year period from the date of issue of that title, provided the vehicle is still registered in the state of Idaho, and there are no actions or claims pending against the applicant which places legal ownership in question. The department and the state of Idaho shall be immune as to any damages suffered by any person or entity as a result of the issuance of a certificate of title as provided by this subsection.

(2) Every dealer desiring the privilege of issuing temporary registration permits for the operation of vehicles shall make application to the department. If the privilege is granted, the dealer will receive a series of permits, consecutively numbered by the department, secured by the dealer at a fee of five dollars (\$5.00) for each permit. A permit subsequently issued by a dealer to a purchaser shall be valid for a period not to exceed thirty (30) days.

The dealer shall issue temporary registration permits in numerical sequence, one (1) only for each vehicle sold to a bona fide purchaser. Each permit, and the attached stub, shall be completed in duplicate, in ink or by typewriter at the time of issuance. The expiration date on the original permit shall be filled in by rubber stamp or broad-tipped marking pen, and the print shall be at least three-fourths (3/4) inch high and one-eighth (1/8) inch wide. The original permit shall be displayed in the rear window of the vehicle for which it is issued, except when issued for a convertible, station wagon, motorcycle, or other vehicle for which this would not be practical. In

these exceptional cases, the permit should be conspicuously displayed in a place where the number of the permit and the expiration date may be easily read and where protected from exposure to weather conditions which would render it illegible.

(3) The dealer shall keep a written record of every temporary registration permit issued. This record shall include the name and address of the person or firm to whom the permit is issued, a description of the vehicle for which it is issued, including year, make, model, identification number, and the date of issue. This record shall list all permits in numerical sequence and shall be open to inspection by any peace officer or designated employee of the department.

(4) The fees collected from dealers by the department under the provisions of this section shall be transmitted by the department to the state treasurer for deposit in the highway distribution account.

(5) Upon application for title and for registration of a vehicle for which temporary registration has been issued under this section, the county assessor shall collect and fees shall be deemed due from the date of issuance of the temporary registration permit rather than from date of application for title or registration.

(6) The department or a county assessor may issue temporary vehicle registration permits in an emergency situation. The fee for a temporary registration shall be five dollars (\$5.00), and shall be valid for a period of thirty (30) days. The temporary fees collected by the department shall be transmitted to the state treasurer for deposit in the highway distribution account. Temporary fees collected by an assessor shall be distributed as follows: three dollars (\$3.00) shall be deposited in the county current expense fund and two dollars (\$2.00) shall be transmitted to the department for deposit through the state treasurer in the highway distribution account. [I.C., § 49-434, as added by 1982, ch. 354, § 1, p. 902; am. 1984, ch. 195, § 27, p. 445; am. 1984, ch. 260, § 1, p. 628; am. and redesign. 1988, ch. 265, § 138, p. 549; am. 1991, ch. 153, § 12, p. 361.]

STATUTORY NOTES

Cross References. — Highway distribution account, § 40-701.

Prior Laws. — Former § 49-523, which comprised I.C., § 49-523, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-434 and was amended and redesignated by § 138 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-524. Salvage certificate of ownership or electronic file to replace certificate of title or certificate of origin on vehicles. —

(1) Every person acquiring a vehicle which has been determined to be a salvage vehicle, shall obtain a salvage certificate of ownership on that vehicle.

(2) The salvage certificate shall replace the certificate of origin, certificate of title or other comparable ownership document and shall indicate ownership only; it shall not be valid for registration purposes.

(3) A salvage certificate of ownership shall be issued by the department or under the direction of the department and shall be on a form or electronic file as prescribed by the department. The form or electronic file shall provide for assignments of the salvage certificate.

(4) The fee for a salvage certificate or electronic filing of a salvage certificate shall be fifteen dollars (\$15.00). The fee shall be deposited in the state highway account.

(5) Every insurer making payment for a vehicle which has been determined to be a salvage vehicle, shall within thirty (30) days from receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(6) If a salvage pool receives a certificate of title for a vehicle which has been determined to be a salvage vehicle, he shall within thirty (30) days and upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate to the purchaser and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing. The department shall mark its records appropriately.

(7) It is a misdemeanor, punishable by up to six (6) months in jail, a fine of one thousand dollars (\$1,000) or both, if the owner of a retained salvage vehicle fails to surrender the title and be issued a salvage certificate, or to sell the vehicle and not tell the buyer that the vehicle is totaled.

(8) If an insurer has allowed the owner to retain ownership of the salvage vehicle, the owner must surrender the certificate of title for such vehicle to the department or the insurance company not later than thirty (30) days from the date that the claim was satisfied. The insurer must notify the department of a total loss payoff. The insurer or department shall issue a salvage certificate to the owner prior to any sale or disposition of the salvage vehicle.

(9) If an insurer acquires the certificate of title of a vehicle in a settlement of a theft claim, the insurer shall immediately, upon receipt of the properly released certificate of origin or certificate of title, issue a salvage certificate in the name of the insurer and surrender to the department the ownership documents, a copy of the salvage certificate, the salvage certificate fee and other documents as required by the department for processing.

(10) If an insurer has acquired a vehicle in a settlement of a theft claim, has made application to and has been issued a new salvage certificate in the name of the insurer and the vehicle is subsequently recovered and is not a salvage vehicle, the insurer may complete an affidavit indemnifying the department stating the facts of acquisition and disposition of the vehicle in a form prescribed by the department and deliver the salvage certificate of ownership, affidavit and any other documents required by the department to the transferee at the time of delivery of the vehicle. A notation of "theft recovery" shall be made on the title record.

(11) Any person acquiring ownership of a salvage vehicle purchased in a state or jurisdiction which does not require surrender of the certificate of

title or comparable ownership document shall, within thirty (30) days following delivery of the certificate of title or ownership document, surrender such title or document to the department and apply for a salvage certificate.

(12) An owner of a salvage vehicle who sells or transfers said vehicle shall provide a properly executed assignment of the salvage certificate of ownership to the transferee.

(13) A purchaser of a salvage vehicle shall not possess or retain a salvage vehicle without a salvage certificate. The salvage vehicle purchaser shall display the salvage certificate upon the request of any peace officer or agent of the department. [I.C., § 49-524, as added by 1989, ch. 285, § 7, p. 698; am. 1994, ch. 296, § 3, p. 933; am. 1995, ch. 162, § 1, p. 641; am. 1996, ch. 327, § 2, p. 1117; am. 2001, ch. 73, § 16, p. 154; am. 2006, ch. 102, § 1, p. 280; am. 2008, ch. 84, § 2, p. 219.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Amendments. — The 2006 amendment, by ch. 102, deleted “which is five (5) years old or less or which has a known market value in excess of six thousand dollars (\$6,000)” following the first occurrence of “vehicle” in subsections (1), (5) and (6) and deleted “unless the salvage vehicle is six (6) years old or older with a fair market value of six thousand dollars (\$6,000) or less” following “certificate” in subsection (13).

The 2008 amendment, by ch. 84, rewrote the section catchline, which formerly read: “Salvage certificate of ownership to replace certificate of title or origin on certain vehicles

— Vessels not included”; in subsection (3), substituted “by the department, or under the direction of the department” for “by the department, the insurer, or a salvage pool” and twice inserted “or electronic file”; rewrote the first sentence in subsection (4), which formerly read: “The fee for a salvage certificate shall be the same as for issuance of any regular Idaho certificate of title”; in subsection (8), substituted “thirty (30) days” for “fifteen (15) days” in the first sentence; added the last sentence in subsection (10); and deleted subsection (14), which read: “The provisions of this section shall not apply to vessels.”

49-525. Salvage-certified vehicle — Branded certificate of title. —

(1) The department shall issue a branded certificate of title on any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage has been issued by this or any other state, provided, if documentation of salvage certification has been received from another state, the requirements specified in section 49-524, Idaho Code, shall be applied to that vehicle.

(2) If an otherwise correct application is made for a certificate of title on any salvage vehicle, the department shall issue a branded certificate of title as a “rebuilt salvage vehicle” if the application for a certificate of title is supported by a salvage vehicle statement completed by the owner which states:

- (a) That the owner personally rebuilt or repaired the vehicle or personally supervised its rebuilding or repairing and includes a description of work done to restore the vehicle to the operating condition that existed prior to the event which caused the salvage certificate to be issued;
- (b) That the identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced;

(c) That the salvage certificate document or out-of-state title certificate attached to the application has not to the knowledge of the owner been forged, falsified or altered; and

(d) That all information contained on the application and its attachments is true and correct.

(3) Each branded certificate of title received from another jurisdiction shall have its brand carried forward to all subsequent certificates of title issued in this state.

(4) The department may promulgate rules as necessary to implement the provisions of sections 49-524 and 49-525, Idaho Code. [I.C., § 49-525, as added by 1989, ch. 285, § 8, p. 698; am. 1994, ch. 296, § 4, p. 933; am. 2006, ch. 102, § 2, p. 280; am. 2008, ch. 84, § 3, p. 220.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 102, added the last paragraph in subsection (2)(b); inserted “if the inspector issued a vehicle statement of facts as required in subsection (2) of this section” in the introductory paragraph of subsection (3); inserted present subsection (6); and redesignated former subsections (6) and (7) as present subsections (7) and (8).

The 2008 amendment, by ch. 84, deleted “Inspections — Branding” following “vehicle” in the section heading and rewrote the section to the extent that a detailed comparison is impracticable.

Effective Dates. — Section 9 of S.L. 1989, ch. 285 provided that the act would become effective January 1, 1990.

49-526. Release of liability upon sale of vehicle. — (1) The department shall require that a separate release of liability statement be completed by the owner of a motor vehicle upon sale or transfer of the motor vehicle to another party. The statement shall be forwarded to the department by the former owner, together with the proper fee as provided in section 49-202, Idaho Code, within five (5) days of delivery of the motor vehicle to a dealer, purchaser or other transferee. The statement shall include the motor vehicle identification number, vehicle description, name of seller, name and address of buyer or other transferee, date of sale, odometer reading, and sales price. Provided that:

(a) A lienholder may complete the release of liability on behalf of the registered owner when the title is released by the lienholder directly to a dealer or new purchaser.

(b) Motor vehicle dealers licensed under chapter 16, title 49, Idaho Code, are not required to report dealer-to-dealer transfers to the department. However, dealers are required to maintain a record of the transfer for audit and tracking purposes.

(2) Any former owner who files a release of liability statement with the department pursuant to this section shall not be liable under section 49-2417, Idaho Code, nor shall the former owner be liable for any motor vehicle infractions, towing, storage, repair or service charges that may occur subsequent to delivery of the vehicle to a dealer, purchaser or other transferee.

(3) It shall be unlawful for any person to knowingly file or attempt to file a release of liability statement which contains false information. [I.C.,

§ 49-526, as added by 1996, ch. 271, § 2, p. 879; am. 2002, ch. 366, § 2, p. 1032; am. 2003, ch. 153, § 1, p. 440.]

STATUTORY NOTES

Prior Laws. — Former § 49-526, which comprised I.C. § 49-526, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Effective Dates. — Section 3 of S.L. 1996, ch. 271, provided that the act shall be in full force and effect on and after January 1, 1997.

49-527. Purpose of transitional ownership document. — The purpose of a transitional ownership document is to enable security interest to be perfected in a timely manner when the primary ownership document is not available. The transitional ownership document serves to perfect a lien against creditors or subsequent purchasers.

(1) To perfect a security interest the transitional ownership document must be received by the department or agent within thirty (30) days of the date of sale. To determine the thirty (30) days, exclude the first day (i.e., date of sale) and count each calendar day thereafter. If the thirtieth day falls on a weekend or holiday it is not counted; the last date the transitional ownership document will be accepted is the following business day of the department or agent.

(2) The lien will be perfected as of the date and time of filing consistent with section 49-510, Idaho Code.

(3) The transitional ownership document is not intended to supersede the requirements of section 49-504, Idaho Code, but rather to provide an alternative method of lien perfection.

(4) Once a transitional ownership document has been filed with the department or agent, the primary ownership document must be received by the department or agent within ninety (90) calendar days from the date of the security agreement or contract. To determine ninety (90) days, exclude the first day (i.e., day of sale) and count each calendar day thereafter. If the ninetieth day falls on a weekend or holiday, the last date the transitional ownership document may be used to determine date of security interest perfection is the following business day of the department or agent. [I.C., § 49-527, as added by 2000, ch. 320, § 1, p. 1078; am. 2007, ch. 66, § 3, p. 167.]

STATUTORY NOTES

Prior Laws. — Former § 49-527, which comprised I.C., § 49-527, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Amendments. — The 2007 amendment, by ch. 66, in subsections (1) and (4), substituted “transitional ownership document” for “temporary ownership document” and “is the

following business day of the department or agent” for “is bumped to the next department or agent working day”; and in subsection (1), twice substituted “thirty (30) days” for “twenty (20) days” and substituted “thirtieth day” for “twentieth day.”

Effective Dates. — Section 6 of S.L. 2000, ch. 320, provided that the act shall be in full force and effect on and after January 1, 2001.

49-528. Circumstances under which transitional ownership document acceptable as evidence of ownership. — A transitional ownership document is acceptable as evidence of ownership only if the primary ownership document:

(1) Is not in the possession of the selling dealer, new security interest holder or the agent of either at the time the transitional ownership document is submitted to the department; and

(2) To the best of the knowledge of the selling dealer, security interest holder or agent, will not be available for submission to the department within thirty (30) days of the date of sale or if no sale is involved, within the date of a security agreement or contract. [I.C., § 49-528, as added by 2000, ch. 320, § 1, p. 1078; am. 2007, ch. 66, § 4, p. 167.]

STATUTORY NOTES

Prior Laws. — Former § 49-528, which comprised I.C., § 49-528, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Amendments. — The 2007 amendment, by ch. 66, in the section catchline and in the

introductory language, substituted “evidence of ownership” for “ownership document”; and in subsection (2), substituted “thirty (30) days” for “twenty (20) days.”

Effective Dates. — Section 6 of S.L. 2000, ch. 320, provided that the act shall be in full force and effect on and after January 1, 2001.

49-529. Mandatory rejection or invalidation of transitional ownership document by department. — The transportation department shall reject, return or subsequently invalidate a transitional ownership document if:

(1) More than thirty (30) days have elapsed between the date of sale, or if no sale is involved, more than thirty (30) days have elapsed between the date the contract or security interest being perfected was signed and the date the transitional ownership document is received by the department;

(2) The transitional ownership document does not contain all of the information contained in section 49-121(7), Idaho Code;

(3) It is determined that persons named on the transitional ownership document as having a security interest did not have a security interest on the date the transitional ownership document was received;

(4) It is determined the person who submitted the transitional ownership document made false statements in completing the transitional ownership document;

(5) The department does not receive the primary ownership document from the date of sale within ninety (90) days of the date of sale or if no sale is involved, within ninety (90) days from the date the security agreement or contract was signed;

(6) The security interest holder or person submitting the transitional ownership document elects to retain, requests it be returned or requests that the transitional ownership document be withdrawn; or

(7) The information on or in the transitional ownership document has been changed or altered in a manner that is not acceptable to the department. [I.C., § 49-529, as added by 2000, ch. 320, § 1, p. 1078; am. 2007, ch. 66, § 5, p. 167.]

STATUTORY NOTES

Prior Laws. — Former § 49-529, which comprised I.C., § 49-529, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Amendments. — The 2007 amendment,

by ch. 66, twice substituted “thirty (30) days” for “twenty (20) days” in subsection (1).

Effective Dates. — Section 6 of S.L. 2000, ch. 320, provided that the act shall be in full force and effect on and after January 1, 2001.

49-530. Discretionary rejection or invalidation of document by department. — The transportation department may reject, return or subsequently invalidate a transitional ownership document if it is determined that:

(1) Title is to be issued to someone other than the person shown on the transitional ownership document;

(2) Interests reflected on the primary ownership document or in information submitted in conjunction with that document conflict with the interests as reflected on the transitional ownership document;

(3) The person submitting the transitional ownership document has failed to submit the nonrefundable fee required by section 49-202(e), Idaho Code; or

(4) A copy of the application for certificate of title is not attached as required by the department. [I.C., § 49-530, as added by 2000, ch. 320, § 1, p. 1078.]

STATUTORY NOTES

Prior Laws. — Former § 49-530, which comprised I.C., § 49-530, as added by 1977, ch. 152, § 2, p. 337, was repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

Effective Dates. — Section 6 of S.L. 2000, ch. 320, provided that the act shall be in full force and effect on and after January 1, 2001.

49-531 — 49-578. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised I.C., §§ 49-531 — 49-579, as added by 1982, ch. 353, § 15, p. 874, were

repealed by S.L. 1988, ch. 265, § 115, effective January 1, 1989.

49-579. Violation an infraction — Penalty. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-579, as added by 1982, ch. 353, § 15, p. 874, was repealed by S.L.

1988, ch. 265, § 115, effective January 1, 1989.

49-580. [Reserved.]**STATUTORY NOTES**

Compiler's Notes. — This section was reserved in the former codification of title 49.

49-581 — 49-591. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-581 — 49-591 were amended and redesignated as §§ 49-206, 49-208, 49-201, 49-202, 49-209 — 49-212, 49-217, and 49-218 by §§ 7, 9, 4, 5, 10 — 13, 15, and 16 of S.L. 1988, ch. 265, respectively.

49-592. Abandoned vehicles. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-592, as added by 1977, ch. 152, § 2, p. 337; am. 1978, ch. 56, § 1, p. 107 was repealed by S.L. 1982, ch. 351, § 1.

49-592A. Authorizing seizure of motor and other vehicles — Prohibiting defacing, altering or obliterating numbers — Sales prohibited — Penalty. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-592A, as added by 1978, ch. 339, § 1, p. 872; am. 1981, ch. 57, § 1, p. 86 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

49-593 — 49-595. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-593 — 49-595 were amended and redesignated as §§ 49-221 — 49-223 by §§ 17-19 of S.L. 1988, ch. 265, respectively.

CHAPTER 6**RULES OF THE ROAD****SECTION.**

- 49-601. Application.
- 49-602. Unattended motor vehicle.
- 49-603. Starting parked vehicle.
- 49-604. Limitations on backing.
- 49-605. Driving upon sidewalk.
- 49-606. Coasting prohibited.
- 49-607. Opening and closing vehicle doors.
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- 49-609. Persons riding animals or driving animal-drawn vehicles.
- 49-610. [Reserved.]

SECTION.

- 49-611. [Reserved.]
- 49-612. Obstruction to driver's view or driving mechanism.
- 49-613. Putting glass or other injurious materials on highway prohibited.
- 49-614. Stop when traffic obstructed.
- 49-615. Drivers to exercise due care.
- 49-616. Driving through safety zone prohibited.
- 49-617. [Reserved.]
- 49-618. [Reserved.]
- 49-619. Slow moving vehicles — Restrictions

SECTION.

- and exceptions, equipment —
Emblems on certain machinery — Limited exemption.
- 49-620. [Reserved.]
- 49-621, 49-622. [Reserved.]
- 49-623. Authorized emergency or police vehicles.
- 49-624. Driver duty upon approaching a stationary police vehicle or an authorized emergency vehicle displaying flashing lights.
- 49-625. Operation of vehicles on approach of authorized emergency or police vehicles.
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- 49-628, 49-629. [Reserved.]
- 49-630. Drive on right side of roadway — Exceptions.
- 49-631. Passing vehicles proceeding in opposite directions.
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- 49-633. When passing on the right is permitted.
- 49-634. Limitations on overtaking on the left.
- 49-635. Further limitations on driving on left of center of highway.
- 49-636. One-way highways.
- 49-637. Driving on highways laned for traffic.
- 49-638. Following too closely.
- 49-639. Turning out of slow moving vehicles.
- 49-640. Vehicles approaching or entering unmarked or uncontrolled intersection.
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- 49-643. Highway construction and maintenance.
- 49-644. Required position and method of turning.
- 49-645. Limitations on turning around.
- 49-646. [Reserved.]
- 49-647. [Reserved.]
- 49-648. Obedience to signal indicating approach of train.

SECTION.

- 49-649. Compliance with stopping requirement at all railroad grade crossings.
- 49-650. Moving heavy equipment at railroad grade crossings.
- 49-651. Emerging from alley, driveway or building.
- 49-652, 49-653. [Reserved.]
- 49-654. Basic rule and maximum speed limits.
- 49-655. Minimum speed regulation.
- 49-656. Special speed limitations.
- 49-657. Work zone speed limits — Penalty.
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- 49-659. Stopping, standing or parking outside business or residential districts.
- 49-660. Stopping, standing or parking prohibited in specified places.
- 49-661. Additional parking regulations.
- 49-662. Officers authorized to remove vehicles.
- 49-663. Restricted use of neighborhood electric vehicles on highways.
- 49-664. [Reserved.]
- 49-665. Riding on motorcycles.
- 49-666. Motorcycle, motorbike, UTV and ATV safety helmets — Requirements and standards.
- 49-667, 49-668. [Reserved.]
- 49-669. Snowmobile operation limited.
- 49-670. [Reserved.]
- 49-671. [Reserved.]
- 49-672. Passenger safety for children.
- 49-673. Safety restraint use.
- 49-674. Harvest season.
- 49-675. [Amended and Redesignated.]
- 49-676. [Repealed.]
- 49-677 — 49-680. [Reserved.]
- 49-681 — 49-686. [Amended and Redesignated.]
- 49-687. [Repealed.]
- 49-688 — 49-690. [Reserved.]
- 49-691 — 49-698. [Amended and Redesignated.]

49-601. Application. — The provisions of this chapter relate exclusively to the operation of vehicles upon highways, except where a different place is specifically referred to in a given section.

They shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway but shall apply to persons and vehicles when traveling to or from that work. [I.C., §§ 49-601, 49-604, as added by 1977, ch. 152, § 3, p. 337; am. 1988, ch. 265, § 140, p. 549.]

STATUTORY NOTES

Cross References. — Bicycles and other human-powered vehicles, §§ 49-714 — 49-724.

Compiler's Notes. — Section 140 of S.L.

1988, ch. 265 amended § 49-601 and amended and redesignated § 49-605 to become the second paragraph of § 49-601.

Effective Dates. — Section 586 of S.L.

1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

Cited in: Ahles v. Tabor, 136 Idaho 393, 34 P.3d 1076 (2001).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Equipment used in highway work.
Instructions.

Equipment Used in Highway Work.

Traffic rules of the road are not applicable to equipment actually engaged in work upon the surface of a highway. *Hoffman v. Barker*, 80 Idaho 372, 330 P.2d 978 (1958).

Instructions.

Instructions given in action brought by parents individually and as guardians of a minor son injured while working for highway construction company when run down by a motorist, that such construction company doing

work on highway was bound to act reasonably and with due regard for the rights of persons using the highway and would be liable for any acts of negligence and that trucks and equipment of such company while working on highway construction had a right to be any place on the highway while actually engaged in dumping gravel or doing work at that particular place, correctly stated the law when read together. *Hoffman v. Barker*, 80 Idaho 372, 330 P.2d 978 (1958).

49-602. Unattended motor vehicle. — No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake and, when standing upon any grade, turning the front wheels to the curb or side of the highway. [I.C., § 49-701, as added by 1977, ch. 152, § 4, p. 337; am. 1982, ch. 353, § 27, p. 874; am. and redesi. 1988, ch. 265, § 141, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-602, which comprised I.C., § 49-603, as added by 1982, ch. 353, § 22, p. 874, was repealed by S.L. 1988, ch. 265, § 139, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-701A and was amended and redesignated by § 141 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

ANALYSIS

No implied consent.
Unauthorized use of unattended vehicle.

No Implied Consent.

Where the defendant could not find the keys to his car and left it on a residential street from which it was apparently stolen and involved in a collision with three parked cars, the plaintiff owner of one of the parked cars could not recover civil damages under

law regarding owner's tort liability for negligence of another, on a theory that the defendant by leaving his keys in the car in violation of this section gave implied consent to an unknown third party driver to use the car, since the act of the unknown party in taking the car and then driving it negligently was an

intervening force which constituted a superseding cause to the defendant's presumed negligence, and since, as a matter of law, violation of statutes like this section cannot be the proximate cause of an accident arising from the intervening activity of an interloper who has taken the vehicle. *Gamble v. Kinch*, 102 Idaho 335, 629 P.2d 1168 (1981).

Unauthorized Use of Unattended Vehicle.

The former section which prohibited leaving the engine running in an unattended

vehicle was a deterrent to theft and a safety device designed to protect members of the public from damage caused by the operation of a motor vehicle by an unauthorized person and did not in and of itself imply consent for an employee to use a vehicle owned by an employer and left unattended with the key remaining in the ignition lock. *Steele v. Nagel*, 89 Idaho 522, 406 P.2d 805 (1965).

RESEARCH REFERENCES

C.J.S. — 60A C.J.S., Motor Vehicles, § 334.

A.L.R. — Failure to set brakes, or maintain adequate brakes, as causing accidental run-away of parked motor vehicle. 42 A.L.R.3d 1252.

Failure of motorist to cramp wheels against curb or turn them away from traffic, or to shut off engine, as causing accidental starting up of parked motor vehicle. 42 A.L.R.3d 1283.

Liability for injury or damage caused by

accidental starting up of parked motor vehicle. 43 A.L.R.3d 930.

Liability of motorist who left key in ignition for damage or injury caused by stranger operating the vehicle. 45 A.L.R.3d 787.

Presumption of negligence and application of *res ipsa loquitur* doctrine in action for injury or damages caused by accidental starting up of parked motor vehicle. 55 A.L.R.3d 1260.

49-603. Starting parked vehicle. — No person shall start movement of a vehicle which is stopped, standing or parked unless movement can be made with reasonable safety. [I.C., § 49-663, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 142, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-603, which comprised I.C., § 49-603, as added by 1977, ch. 152, § 3, p. 337 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

Compiler's Notes. — This section was formerly compiled as § 49-663 and was amended and redesignated by § 142 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

A.L.R. — Liability for injury or damage resulting from starting of parked automobile, without interference of third person. 43 A.L.R.3d 930.

Presumption of negligence and application

of *res ipsa loquitur* doctrine in action for injury or damage caused by accidental starting up of parked motor vehicle. 55 A.L.R.3d 1260.

49-604. Limitations on backing. — (1) The driver of a vehicle shall not back the vehicle unless that movement can be made with safety and without interfering with other traffic.

(2) The driver of a vehicle shall not back it upon any shoulder or lane of travel of any controlled-access highway. [I.C., § 49-702, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 143, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-702 and was amended and redesignated by § 143 of S.L. 1988, ch. 265 to become this section.

Former § 49-604 was amended and redesignated as § 49-609 by § 148 of S.L. 1988, ch. 265.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 227.

C.J.S. — 60A C.J.S., Motor Vehicles, § 653 et seq.

49-605. Driving upon sidewalk. — No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or temporary driveway. This section shall not apply to any vehicle moved exclusively by human power, an electric personal assistive mobility device nor to any motorized wheelchair. For the purposes of assuring the safety of pedestrians and others using sidewalks, a political subdivision having jurisdiction over sidewalks may, by ordinance or by traffic control device, regulate the time, place and manner of the operation of electric personal assistive mobility devices. [I.C., § 49-703, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 144, p. 549; am. 2002, ch. 160, § 4, p. 466.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-703 and was amended and redesignated by § 144 of S.L. 1988, ch. 265 to become this section.

Former § 49-605 was amended and redesignated as the second paragraph of § 49-601 by § 140 of S.L. 1988, ch. 265.

49-606. Coasting prohibited. — The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gear or transmission in neutral nor with the clutch disengaged. [I.C., § 49-708, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 145, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-708 and was amended and redesignated by § 145 of S.L. 1988, ch. 265 to become this section.

Former § 49-606 was amended and redesignated as § 49-623 by § 155 of S.L. 1988, ch. 265.

49-607. Opening and closing vehicle doors. — No person shall open the door of a motor vehicle on a side available to moving traffic unless and until it is reasonably safe to do so and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on a side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. [I.C., § 49-705, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 146, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-607, which comprised 1953, ch. 273, § 36, p. 478, was repealed by S.L. 1977, ch. 152, § 1.

Compiler's Notes. — This section was

formerly compiled as § 49-705 and was amended and redesignated by § 146 of S.L. 1988, ch. 265 to become this section.

49-608. Riding in manufactured homes or commercial coaches.

— No person shall occupy a manufactured home or commercial coach while it is being moved upon a highway. [I.C., § 49-706, as added by 1977, ch. 152, § 4, p. 337; am. 1978, ch. 85, § 2, p. 159; am. and redesisg. 1988, ch. 265, § 147, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-608, which comprised 1953, ch. 273, § 37, p. 478, was repealed by S.L. 1977, ch. 152, § 1.

Compiler's Notes. — This section was

formerly compiled as § 49-706 and was amended and redesignated by § 147 of S.L. 1988, ch. 265 to become this section.

49-609. Persons riding animals or driving animal-drawn vehicles.

— Every person riding an animal or driving any animal-drawn vehicle upon a highway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions of this title which, by their very nature, can have no application. [I.C., § 49-604, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 148, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-609 which comprised 1953, ch. 273, § 38, p. 478, was repealed by S.L. 1977, ch. 152, § 1.

Compiler's Notes. — This section was

formerly compiled as § 49-604 and was amended and redesignated by § 148 of S.L. 1988, ch. 265 to become this section.

49-610. [Reserved.]

49-611. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-611 was amended and redesignated as § 49-801 by § 215 of S.L. 1988, ch. 265.

49-612. Obstruction to driver's view or driving mechanism. —

(1) No person shall drive a vehicle when it is so loaded or when there are in the front seat a number of persons exceeding three (3), as to obstruct the view of the driver to the front or the sides of the vehicle, or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in a position as to interfere with the driver's view ahead or to the sides, or to interfere with his control of the driving mechanism of the vehicle.

(3) No vehicle shall be operated when the windshield and/or windows of the vehicle are coated with ice, snow, sleet, or dust to the extent that the driver's view ahead, or to the sides or rear of the vehicle are obstructed. [I.C., § 49-704, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 149, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-704 and was amended and redesignated by § 149 of S.L. 1988, ch. 265 to become this section. Former § 49-612 was amended and redesignated as § 49-802 by § 216 of S.L. 1988, ch. 265.

49-613. Putting glass or other injurious materials on highway prohibited. — (1) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon the highway.

(2) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove that material or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from that vehicle. [I.C., § 49-711, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 150, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-711 and was amended and redesignated by § 150 of S.L. 1988, ch. 265 to become this section. Former § 49-613 was amended and redesignated as § 49-803 by § 217 of S.L. 1988, ch. 265.

49-614. Stop when traffic obstructed. — No driver shall enter an intersection, a marked crosswalk, or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, regardless of any traffic control signal indication to proceed. [I.C., § 49-712, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 151, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-712 and was amended and redesignated by § 151 of S.L. 1988, ch. 265 to become this section. Former § 49-614 was amended and redesignated as § 49-804 by § 218 of S.L. 1988, ch. 265.

49-615. Drivers to exercise due care. — Notwithstanding other provisions of this title or the provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or any person propelling a human-powered vehicle and shall give an audible

signal when necessary. Every driver shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person. [I.C., § 49-724, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 152, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-724 and was amended and redesignated by § 152 of S.L. 1988, ch. 265 to become this section.

Former § 49-615 was amended and redesignated as § 49-805 by § 219 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Negligence.

Proper precaution.

Negligence.

In a personal injury action, the jury reasonably could have concluded that although the pedestrian/plaintiff entered the intersection in a negligent manner, the driver was also negligent in failing to observe the plaintiff in the intersection. *Smith v. Praegitzer*, 113 Idaho 887, 749 P.2d 1012 (Ct. App. 1988).

Proper Precaution.

In action for damages due to collision between car and motorcycle, where jury could find that seven-year-old plaintiff motorcycle

rider was a special hazard and that defendant could have exercised proper precaution under this section, there was no basis to find that defendant owed no duty to plaintiff and that defendant's conduct as a matter of law could not be the proximate cause of the accident and, thus, court erred in issuing order for summary judgment. *Robinson v. Westover*, 101 Idaho 766, 620 P.2d 1096 (1980).

This section clearly imposes a duty on a driver to sound his horn when necessary. *Rife v. Long*, 127 Idaho 841, 908 P.2d 143 (1995).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Instructions.

Last clear chance.

Instructions.

The refusal to give certain instructions under the circumstances presented was not error where court's instructions adequately covered the requested instructions, such requested instructions involving speed of an automobile under certain circumstances, rights and duties of pedestrians and the place of walking for pedestrians. *Lallatin v. Terry*, 81 Idaho 238, 340 P.2d 112 (1959).

The error, if any, committed by the court in embodying the former section requiring drivers to exercise due care in an instruction in a pedestrian injury case was negated by the giving of an instruction admonishing the jury to consider all instructions together as a whole and not to put emphasis on some and disregard others, and of an instruction on the duty of pedestrians on roadways as prescribed by the former law. *Loomis v. Hannah*, 89 Idaho 358, 404 P.2d 568 (1965).

An instruction in the language of the former section requiring drivers to exercise

due care was not erroneous as requiring a motorist to sound his horn regardless of whether he knew or should have known of the presence of a pedestrian in the roadway. *Nichols v. Sonneman*, 91 Idaho 199, 418 P.2d 562 (1966).

Instruction to jury that required a standard of due care dependent upon the particular facts existing, i.e., the presence of small children, was not inconsistent with law that provided that drivers should exercise due care to avoid collisions with pedestrians and did not require a higher degree or standard of care than ordinary care. *Davis v. Bushnell*, 93 Idaho 528, 465 P.2d 652 (1970).

In action for injuries sustained by a pedestrian struck by an automobile, trial court did not err in refusing to instruct the jury that, when necessary, a driver must give warning to a pedestrian by sounding the horn in which action the evidence did not establish that the driver saw or, in the exercise of reasonable care, should have seen the pedestrian in time

to effectually sound a warning. *Pridgen v. Lewallen*, 95 Idaho 213, 506 P.2d 110 (1973).

Last Clear Chance.

The question as to whether or not driver of an automobile had the last clear chance of

avoiding the accident when his car struck the pedestrian crossing the road, in view of the facts, was one for the jury, and the trial court erred in granting the motion for summary judgment in favor of the driver. *Jack v. Fillmore*, 85 Idaho 36, 375 P.2d 321 (1962).

RESEARCH REFERENCES

C.J.S. — 60A C.J.S., Motor Vehicles, § 756 et seq.

A.L.R. — Motorist's liability for striking person lying in road. 41 A.L.R.4th 303.

49-616. Driving through safety zone prohibited. — No vehicle shall at any time be driven through or within a safety zone. [I.C., § 49-728, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 153, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-616, which comprised I.C., § 49-616, as added by 1977, ch. 152, § 3, p. 337 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

Compiler's Notes. — This section was formerly compiled as § 49-728 and was amended and redesignated by § 153 of S.L. 1988, ch. 265 to become this section.

49-617. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-617 was amended and redesignated as § 49-806 by § 220 of S.L. 1988, ch. 265.

49-618. [Reserved.]

49-619. Slow moving vehicles — Restrictions and exceptions, equipment — Emblems on certain machinery — Limited exemption.

— (1) It shall be unlawful to operate a slow moving vehicle on the highways at the following times and under the following circumstances:

(a) From one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise, unless the vehicle or equipment is equipped with lights as required by section 49-916, Idaho Code;

(b) At a speed in excess of twenty-five (25) miles per hour, unless the vehicle or equipment, including towed units of farm equipment, is designed to safely travel at speeds in excess of twenty-five (25) miles per hour, but no such vehicle or equipment shall exceed the posted maximum speed limit and shall be operated by a licensed driver;

(c) In such a manner as to obstruct the free movement of traffic on the highways.

(2) A slow moving vehicle shall be equipped with a braking system and with a mechanical signaling device as required for other similarly constructed vehicles.

(3) All slow moving vehicles, farm tractors, road rollers and implements of husbandry shall have affixed at the rear of the vehicle an emblem

identifying them as slow moving equipment. The Idaho traffic safety commission shall recommend to the board the minimum standards for the emblem.

(4) Emergency and snow removal vehicles owned and operated by the state or its political subdivisions when en route to, from, or in the performance of activities essential to the public safety, shall be exempt from the provisions of paragraphs (a) and (c) of subsection (1) of this section. [I.C., § 49-801A, as added by 1969, ch. 220, § 2, p. 716; am. 1974, ch. 27, § 129, p. 811; am. 1980, ch. 166, § 1, p. 356; am. 1986, ch. 198, § 1, p. 497; am. and redesign. 1988, ch. 265, § 154, p. 549; am. 2004, ch. 174, § 1, p. 551.]

STATUTORY NOTES

Cross References. — Idaho traffic safety commission, § 40-508. originally compiled as § 49-801A and was amended and redesignated by § 154 of S.L. 1988, ch. 265 to become § 49-619.

Compiler's Notes. — This section was

49-620. [Reserved.]

49-621, 49-622. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-621 was amended and redesignated as § 49-630 by § 159 of S.L. 1988, ch. 265. Former § 49-622 was amended and redesignated as § 49-631 by § 160 of S.L. 1988, ch. 265.

49-623. Authorized emergency or police vehicles. — (1) The driver of an authorized emergency or police vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated.

- (2) The driver of an authorized emergency or police vehicle may:
- (a) Park or stand, irrespective of the parking or standing provisions of this title;
 - (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
 - (c) Exceed the maximum speed limits so long as he does not endanger life or property;
 - (d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an authorized emergency or police vehicle shall apply when necessary to warn and to make use of an audible signal having a decibel rating of at least one hundred (100) at a distance of ten (10) feet and/or is displaying a flashing light visible in a 360 degree arc at a distance of one thousand (1,000) feet under normal atmospheric conditions.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the

consequences of his reckless disregard for the safety of others. [I.C., § 49-606, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 155, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-606 and was amended and redesignated by § 155 of S.L. 1988, ch. 265 to become this section.

Former § 49-623 was amended and redesignated as § 49-632 by § 161 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Emergency lights and siren.
Proof of compliance.
Reckless disregard.
Standard of care.

Emergency Lights and Siren.

It is clear from a reading of this section, that the amber deck lights of a police vehicle do not meet the designated requirements of being visible in a 360 degree arc at a distance of 1,000 feet. *State v. Pick*, 124 Idaho 601, 861 P.2d 1266 (Ct. App. 1993).

Proof of Compliance.

The state is required to prove, as an element of the infraction of failure to yield to an emergency vehicle, that the warning lights and siren on the sheriff's vehicle met the statutory requirements. *State v. Monaghan*, 116 Idaho 972, 783 P.2d 311 (Ct. App. 1989).

The state must prove, as an element of the offense of eluding a police officer, that the emergency lights or siren used by the police officer complied with the statutory require-

ments. *State v. Bedard*, 120 Idaho 869, 820 P.2d 1226 (1991).

Reckless Disregard.

Reckless disregard standard applies in police pursuits both when the vehicle being pursued collides with the vehicle of a third party and when the police or emergency vehicle collides with the vehicle of a third party. *Athay v. Stacey*, 142 Idaho 360, 128 P.3d 897 (2005).

Standard of Care.

Idaho reckless disregard standard of care rather than Utah negligence standard of care applied to injuries received by third party pursuant to a chase initiated by a Utah sheriff that crossed into Idaho. *Athay v. Stacey*, 142 Idaho 360, 128 P.3d 897 (2005).

RESEARCH REFERENCES

A.L.R. — Liability for automobile accident other than direct collision with pedestrian as affected by reliance upon or disregard of stop-and-go signal. 2 A.L.R.3d 12.

Liability for collision of automobile with pedestrian at intersection as affected by reliance upon or disregard of stop-and-go signal.

2 A.L.R.3d 155; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

Liability for automobile accident at intersection as affected by reliance upon or disregard of yield sign or signal. 2 A.L.R.3d 275; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

49-624. Driver duty upon approaching a stationary police vehicle or an authorized emergency vehicle displaying flashing lights. — The driver of a motor vehicle, upon approaching a stationary police vehicle displaying flashing lights or an authorized emergency vehicle displaying flashing lights shall:

(1) If the driver is traveling on a highway with two (2) or more lanes carrying traffic in the same direction, immediately reduce the speed of his vehicle below the posted speed limit, proceed with due caution and change lanes as soon as it is possible to do so in a manner that is reasonable and

prudent under the conditions then existing, with regard to actual and potential hazards.

(2) If the driver is traveling on a highway with one (1) lane for each direction of travel, immediately reduce the speed of his vehicle below the posted speed limit, and maintain a safe speed for the road, weather and traffic conditions until completely past the stationary police vehicle or authorized emergency vehicle. [I.C., § 49-624, as added by 2006, ch. 78, § 1, p. 237; am. 2007, ch. 113, § 1, p. 328.]

STATUTORY NOTES

Amendments. — The 2007 amendment, by ch. 113, in subsections (1) and (2), inserted “below the posted speed limit”; and in subsection (1), substituted “proceed with due caution, or change lanes” for “proceed with due

caution and change lanes.”

Compiler’s Notes. — Former § 49-624 was amended and redesignated as § 49-633 by § 162 of S.L. 1988, ch. 265.

49-625. Operation of vehicles on approach of authorized emergency or police vehicles. — (1) Upon the immediate approach of an authorized emergency or police vehicle making use of an audible or visible signal, meeting the requirements of section 49-623, Idaho Code, the driver of every other vehicle shall yield the right-of-way and immediately drive to a position parallel to, and as close as possible to, the nearest edge or curb of the highway lawful for parking and clear of any intersection, and stop and remain in that position until the authorized emergency or police vehicle has passed, except when otherwise directed by a peace officer.

(2) This section shall not operate to relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons using the highway. [I.C., § 49-645, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 156, p. 549.]

STATUTORY NOTES

Compiler’s Notes. — This section was formerly compiled as § 49-645 and was amended and redesignated by § 156 of S.L. 1988, ch. 265 to become this section.

Former § 49-625 were amended and redesignated as § 49-634 by § 163 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Authorized to leave.
De facto detention.
Permissible seizure.
Proof of compliance.
Search and seizure.

Authorized to Leave.

No reasonable person who had been unequivocally told that he could go, as defendant was, would believe that he should disregard the officer’s statement merely because the patrol car’s overhead lights were still flashing, when neither this section nor § 49-

1401(1) required defendant to remain at the site of the traffic stop after the officer authorized him to leave, and it was not practical nor necessary that an officer turn off his emergency lights before he could effectively instruct an individual who had been stopped that he could leave. *State v. Roark*, 140 Idaho

868, 103 P.3d 481 (Ct. App. 2004).

De Facto Detention.

Police officer's act of turning on his vehicle's emergency lights, although not necessarily intended to create a detention, did constitute a technical, de facto detention commanding defendant to remain stopped, pursuant to this section. *State v. Mireles*, 133 Idaho 690, 991 P.2d 878 (Ct. App. 1999).

Permissible Seizure.

While not ruling as to whether activation of the patrol car's emergency lights was a show of authority that effectuated a seizure, but instead assuming that activation of the lights effectuated a seizure by conveying to defendant that she was not free to leave, such a seizure was reasonable and constitutionally permissible in view of the surrounding circumstances. *State v. Waldie*, 126 Idaho 864, 893 P.2d 811 (Ct. App. 1995).

Proof of Compliance.

The state is required to prove, as an element of the infraction of failure to yield to an emergency vehicle, that the warning lights and siren on the sheriff's vehicle met the statutory requirements. *State v. Monaghan*,

116 Idaho 972, 783 P.2d 311 (Ct. App. 1989).

Search and Seizure.

In DUI prosecution, defendant's motion to suppress was properly granted where police officers arrived at a parking lot with their overhead lights activate to investigate a fight, did not see any fight in progress, were told by the people present in the parking lot that there was no fight, and did not deactivate their emergency lights nor tell defendant that he was free to drive away from the scene. The totality of these circumstances would not have led a reasonable motorist to infer that he was free to ignore the questions and drive away. For Fourth Amendment purposes, defendant was seized by the officers when they arrived at the parking lot with their overhead lights flashing and remained so while the officers investigated him for DUI. Police lacked a reasonable suspicion of criminal activity and the officers improperly continued their detention of defendant. *State v. Willoughby*, — Idaho —, — P.3d —, 2008 Ida. App. LEXIS 5 (Jan. 8, 2008).

Cited in: *State v. Bedard*, 120 Idaho 869, 820 P.2d 1226 (1991); *State v. Pick*, 124 Idaho 601, 861 P.2d 1266 (Ct. App. 1993).

DECISIONS UNDER PRIOR LAW

Municipal Ordinance Yields to State Statute.

The provisions of a city ordinance must yield to the provisions of a state statute under Const., Art. 12, § 2. Accordingly, where defendant, upon approach of police car which displayed flashing lights but did not sound siren, turned left in front of police car causing collision rather than pulling to right-hand side of

road or stopping, conviction under statute, which requires that drivers yield for either an audible or visual signal, was upheld even though the Boise City Code requires both an audible and visual signal. *State v. Barsness*, 102 Idaho 210, 628 P.2d 1044, appeal dismissed, 454 U.S. 958, 102 S. Ct. 495, 70 L. Ed. 2d 373 (1981).

RESEARCH REFERENCES

A.L.R. — Construction and application of statutory provision requiring motorists to yield right-of-way to emergency vehicle, 87 A.L.R.5th 1.

49-626. Following fire apparatus prohibited. — The driver of any vehicle other than one on official business shall not follow closer than five hundred (500) feet any fire apparatus traveling in response to a fire alarm, or stop a vehicle within five hundred (500) feet of any fire apparatus stopped in answer to a fire alarm. [I.C., § 49-709, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 157, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-709 and was amended and redesignated by § 157 of S.L. 1988, ch. 265 to become this section.

Former § 49-626 was amended and redesignated as § 49-635 by § 164 of S.L. 1988, ch. 265.

49-627. Crossing fire hose. — No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command. [I.C., § 49-710, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 158, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-627, which comprised I.C., § 49-627, as added by 1977, ch. 152, § 3, p. 337, was repealed by S.L. 1988, ch. 265, § 139, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-710 and was amended and redesignated by § 158 of S.L. 1988, ch. 265 to become this section.

49-628, 49-629. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-628 as §§ 49-636 and 49-637 by §§ 165 and 166 of and 49-629 were amended and redesignated S.L. 1988, ch. 265, respectively.

49-630. Drive on right side of roadway — Exceptions. — (1) Upon all highways of sufficient width a vehicle shall be driven upon the right half of the roadway except as follows:

- (a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;
- (b) When an obstruction exists making it necessary to drive to the left of the center of the highway. Any person doing so shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within a distance as to constitute an immediate hazard;
- (c) Upon a highway divided into three (3) marked lanes for traffic under the applicable rules; or
- (d) Upon a highway restricted to one-way traffic.

(2) Upon all highways any vehicle proceeding at less than normal speed of traffic at the time and place and under the conditions then existing, shall be driven in the right-hand lane available for traffic, or as close as practicable to the right-hand curb or edge of the highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(3) No vehicle shall be driven to the left of the center line upon any highway having four (4) or more lanes for moving traffic and providing for two-way movement of traffic, except when authorized by traffic-control device designating certain lanes to the left side of the center of the highway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (1)(b) of this section. This subsection shall not be construed as prohibiting the crossing of the centerline in making a left turn into or from an alley, private road or driveway. [I.C., § 49-621, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 159, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-621 and was amended and redesignated by § 159 of S.L. 1988, ch. 265 to become this section.

Former § 49-630 was amended and redesignated as § 49-638 by § 167 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Driving on shoulder.
Icy road.
Reasonable suspicion for stop.

Driving on Shoulder.

Where a deputy observed defendant drive through a right turn lane and through a slow vehicle turnout, the deputy possessed reasonable suspicion that defendant was violating this section for driving on the shoulder of the highway, rather than on the roadway, when the traffic stop was made. *State v. Anderson*, 134 Idaho 552, 6 P.3d 408 (Ct. App. 2000).

Icy Road.

Driver whose vehicle slid across center line of highway and collided with another vehicle on an icy road was not excused as a matter of law from violation of statutory obligation to

drive on the right-hand side of the highway. *Teply v. Lincoln*, 125 Idaho 773, 874 P.2d 584 (Ct. App. 1994).

Reasonable Suspicion for Stop.

Because a deputy's observations provided the reasonable suspicion necessary for a lawful traffic stop under § 49-1401(3) and subsection (1) of this section, defendant's motion to suppress the evidence of his intoxication was correctly denied. *State v. Anderson*, 134 Idaho 552, 6 P.3d 408 (Ct. App. 2000).

Cited in: *Priest v. Landon*, 135 Idaho 898, 26 P.3d 1235 (Ct. App. 2001).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Driving in wrong lane.
Duty of driver.
Left turns.
Passing.
Sufficiency of evidence.

Driving in Wrong Lane.

Where defendant was in wrong lane, the unexplained violation of a positive statutory inhibition designed for safety of persons using highway is negligence per se. *Rosenberg v. Toetly*, 93 Idaho 135, 456 P.2d 779 (1969).

Duty of Driver.

It is the primary duty of the driver of a motor vehicle to drive the same upon his right half of the highway. *Baldwin v. Ewing*, 69 Idaho 176, 204 P.2d 430 (1949).

A motorist driving along a highway at a speed of between 20 and 25 miles per hour in a 35-mile zone was duty bound to drive in the right-hand lane. *Mundy v. Johnson*, 84 Idaho 438, 373 P.2d 755 (1962).

Left Turns.

The driver of a pickup truck which was being followed by a truck and trailer violated three former statutory provisions in that (1) he did not approach the intersection for a left turn in that portion of the right half of the

roadway nearest the center line thereof; (2) he turned his vehicle to the left upon the highway when such movement could not be made with reasonable safety; and (3) he gave no signal of his intention to turn when the truck behind him would be affected by such movement, and such acts and omissions on his part constituted negligence. *Woodman v. Knight*, 85 Idaho 453, 380 P.2d 222 (1963).

The last portion of the former statute which stated "except ... when preparing for a left turn ... into a private road or driveway," allowed the driver to move from the right hand lane to the left hand lane preparatory to making a left turn off the highway. *Futrell v. Martin*, 100 Idaho 473, 600 P.2d 777 (1979).

Passing.

Even though there was no audible signal given by truck driver signaling his intention to pass, the act of the pickup truck driver in moving to the right shoulder of the highway might have been legitimately considered as

an invitation to pass, however such act of the truck driver in attempting to pass the pickup truck when within 100 feet of, or traversing, the intersection and in failing to sound his horn, was concurrent with negligence of pickup driver in failing to properly maneuver for a left-hand turn and the negligence of each was a contributing proximate cause of plaintiff's injuries sustained when plaintiff's car was hit by truck, for in the absence of the negligence of either, the collision would not have occurred. Under the circumstances, while they were not acting in concert but independently, each became jointly and severally liable for plaintiff's injuries. *Woodman v. Knight*, 85 Idaho 453, 380 P.2d 222 (1963).

Sufficiency of Evidence.

In an action for damages growing out of a two-car collision in which all occupants of both cars were killed and there were no other eyewitnesses, evidence from physical facts after the collision showing that one driver was slightly on the wrong side of the road after the collision was insufficient to establish negligence per se and such evidence that the other driver was on the wrong side before the collision was sufficient to establish ordinary negligence per se, but not gross negligence. *Petersen v. Parry*, 92 Idaho 647, 448 P.2d 653 (1968).

49-631. Passing vehicles proceeding in opposite directions. — Drivers of vehicles proceeding in opposite directions shall pass each other to the right. Upon highways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one-half the main traveled portion of the highway as possible. [I.C., § 49-622, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 160, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-631, which comprised I.C., § 49-631, as added by 1977, ch. 152, § 3, p. 337, was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

Compiler's Notes. — This section was formerly compiled as § 49-622 and was amended and redesignated by § 160 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Icy Road.

Driver whose vehicle slid across center line of highway and collided with another vehicle on an icy road was not excused as a matter of

law from violation of statutory obligation to drive on the right-hand side of the highway. *Tepley v. Lincoln*, 125 Idaho 773, 874 P.2d 584 (Ct. App. 1994).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Instructions.
Negligence.

Instructions.

Failure of court to mention facts indicating sudden emergency in instruction emphasizing duty of drivers to pass to the right on meeting each other was not error. *Goetz v. Burgess*, 72 Idaho 186, 238 P.2d 444 (1951).

Where defendants' theory of the case was that defendants had not crossed center line of road, no instruction concerning justification of a violation of a statute by defendants was required to be given by the court, since according to defendants' theory there was no violation of any statute by defendants.

Bratton v. Slininger, 93 Idaho 248, 460 P.2d 383 (1969).

Negligence.

The motor vehicle laws anticipate that ordinarily cars meeting on the highway should pass each other to the right; however, in a reasonable attempt to avoid an impending collision, one may turn to the left beyond the center line without necessarily offending against the law of negligence, even though he fails to avoid the collision. *Hamilton v. Carpenter*, 49 Idaho 629, 290 P. 724 (1930).

RESEARCH REFERENCES

A.L.R. — Gross negligence, recklessness, or the like, within "guest" statute or rule, predicated upon position of car on wrong side of

road or encroachment across center line. 6 A.L.R.3d 832.

49-632. Overtaking a vehicle on the left. — The following shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special requirements stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. [I.C., § 49-623, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 161, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-632, which comprised I.C., § 49-632 as added by 1977, ch. 152, § 3, p. 337, was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

Compiler's Notes. — This section was formerly compiled as § 49-623 and was amended and redesignated by § 161 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

ANALYSIS

Duty in overtaking and passing.
Evidence of excessive speed.
Invitation to pass.

Duty in Overtaking and Passing.

A motorist overtaking and passing a bicyclist was under the duty to pass to the left at a safe distance and give audible warning when reasonably necessary. *Kelley v. Bruch*, 91 Idaho 50, 415 P.2d 693 (1966).

Evidence of Excessive Speed.

Where charge was that defendant overtook and passed another vehicle without complying with rules of road, it was not improper to admit evidence as to excessive speed to explain circumstances of offense. *State v. Pasta*, 44 Idaho 671, 258 P. 1075 (1927).

Invitation to Pass.

Even though there was no audible signal given by truck driver signaling his intention to pass, the act of the pickup truck driver in

moving to the right shoulder of the highway might have been legitimately considered as an invitation to pass, however such act of the truck driver in attempting to pass the pickup truck when within 100 feet of, or traversing, the intersection and in failing to sound his horn, was concurrent with negligence of pickup driver in failing to properly maneuver for a left-hand turn and the negligence of each was a contributing proximate cause of plaintiff's injuries sustained when plaintiff's car was hit by truck, for in the absence of the negligence of either, the collision would not have occurred. Under the circumstances, while they were not acting in concert but independently, each became jointly and severally liable for plaintiff's injuries. *Woodman v. Knight*, 85 Idaho 453, 380 P.2d 222 (1963).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 247 et seq.

C.J.S. — 60A C.J.S., Motor Vehicles, § 629 et seq.

A.L.R. — Gross negligence, recklessness, or the like, within “guest” statute, predicated

upon conduct in passing cars ahead or position of car on wrong side of the road. 6 A.L.R.3d 832.

Duty and liability with respect to giving audible signal before passing. 22 A.L.R.3d 325.

49-633. When passing on the right is permitted. — (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (a) When the vehicle overtaken is making or about to make a left turn;
- (b) Upon a highway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. That movement shall not be made by driving off the roadway. [I.C., § 49-624, as added by 1977, ch. 152, § 3, p. 337; am. and redesi. 1988, ch. 265, § 162, p. 549.]

STATUTORY NOTES

Compiler’s Notes. — This section was formerly compiled as § 49-624 and was amended and redesignated by § 162 of S.L. 1988, ch. 265 to become this section.

Former § 49-633 was amended and redesignated as subsections (19) and (20) of § 49-202 by § 5 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Instructions.

Negligence per se.

Instructions.

Instructions that essentially tracked the language of this section, regarding when passing on the right is permitted but which omitted the last line of subsection (2) that “the movement shall not be made by driving off the roadway,” was not defective since the addition of the last line would confuse the jury, and there was not an issue before the jury of passing on the right beyond the surface of the roadway. *LaRue v. Archer*, 130

Idaho 267, 939 P.2d 586 (Ct. App. 1997).

Negligence per se.

Court erred in finding that personal injury plaintiff was negligent per se for passing on the right side of the road where the term “roadway” was unclear, and it, therefore, erroneously apportioned 50 percent of the negligence to him. *Ahles v. Tabor*, 136 Idaho 393, 34 P.3d 1076 (2001).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Instructions.

Jury question.

Proximate cause of collision.

Instructions.

Where the instruction set out the statute and the comments of the trial judge in response to appellant's objection that the negligence of the driver and not the contributory negligence was an issue in the case, these instructions and comments were not sufficiently prejudicial for reversal of judgment. *Rosenberg v. Toetly*, 94 Idaho 413, 489 P.2d 446 (1971).

Jury Question.

Whether or not plaintiff's truck driver was following too closely, or traveling too fast, was a jury question, the truck having tipped over in an attempt to avoid collision with the preceding car which had signaled for a left turn, started to execute it and then returned

to the right-hand side of the road in front of truck driver. *Eckman v. Jones*, 85 Idaho 10, 375 P.2d 180 (1962).

Proximate Cause of Collision.

Where driver of motorcycle one square from intersection on through street observed truck slowly entering intersection and making left turn in front of him, accelerated his speed for the purpose of passing truck on the right but had to veer toward the truck in order to pass parked car; the proximate cause of collision between motorcycle and truck was the acceleration of the speed of the motorcycle and barred recovery of damages by driver of the motorcycle. *Matheson v. Idaho Hdwe. & Plumbing Co.*, 75 Idaho 171, 270 P.2d 841 (1954).

49-634. Limitations on overtaking on the left. — No vehicle shall be driven to the left side of the center of the highway in overtaking and passing another vehicle proceeding in the same direction, unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred (200) feet of any approaching vehicle. [I.C., § 49-625, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 163, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-625 and was amended and redesignated by § 163 of S.L. 1988, ch. 265 to become this section.

Former § 49-634 was amended and redesignated as § 49-639 by § 168 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS**DECISIONS UNDER PRIOR LAW****ANALYSIS**

Evidence showing negligence.

No-passing zone.

Passing at intersection.

Evidence Showing Negligence.

Motorist, driving with setting sun shining into front of automobile and driving at an unlawful speed when approaching crest of grade, and who, before reaching crest, and when he could not see a sufficient distance ahead, suddenly attempted to pass a car ahead, in violation of statute, created the imminent danger and peril and was, therefore, liable for damages growing out of colli-

sion with an automobile approaching from the opposite direction, notwithstanding driver of other automobile became confused and may not have acted wisely in operating his car. *Little v. Ireland*, 30 F. Supp. 653 (D. Idaho 1939).

No-Passing Zone.

The function of determining and marking hazardous zones is an administrative, not a

legislative, function and the highway department (now department of transportation) had power to determine where overtaking would be hazardous and to mark such places with no-passing signs. *Howard v. Missman*, 81 Idaho 82, 337 P.2d 592 (1959).

Passing at Intersection.

A truck driver, overtaking a vehicle ahead of him on its arrival at an intersection with a rural road, which was narrower than the

length of either truck, and attempting to pass the front truck within intersection at the time of a collision resulting from the negligent failure of the driver of such truck to give a signal of his intention to make a left turn into such road, was not guilty of negligence, constituting a contributing cause of the accident, in overtaking and attempting to pass the front truck at the intersection. *Madron v. McCoy*, 63 Idaho 703, 126 P.2d 566 (1942).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 247 et seq.

A.L.R. — Gross negligence, recklessness, or the like, within "guest" statute, predicated

upon conduct in passing cars ahead or position of car on wrong side of the road. 6 A.L.R.3d 832.

49-635. Further limitations on driving on left of center of highway. — (1) No vehicle shall be driven on the left side of the highway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within a distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing, unless otherwise indicated by traffic control devices;

(c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

(2) The foregoing limitations shall not apply upon a one-way highway, nor under the conditions described in subsection (1)(b) of section 49-630, Idaho Code, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

(3) A motorist may drive to the left of no passing pavement markings to complete a passing maneuver started in advance of the no-passing zone, providing the requirements of section 49-634, Idaho Code, are met.

(4) The provisions of this section do not apply under the conditions described in section 49-630(1)(b), Idaho Code, nor to the driver of a vehicle turning into, or from a highway. [I.C., § 49-626, as added by 1977, ch. 152, § 3, p. 337; am. and redesi. 1988, ch. 265, § 164, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 164 of S.L. formerly compiled as § 49-626 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: *Hudelson v. Delta Int'l Mach. Corp.*, 142 Idaho 244, 127 P.3d 147 (2005).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Contributory negligence.
Negligence per se.
No-passing zone.

Contributory Negligence.

Where a truck driver failed to give any notice of his intention to make a left turn but the automobile driver attempted to pass the truck within 100 feet of an intersection, both these acts contributed proximately to the accident complained of, and the automobile driver's recovery was barred by his contributory negligence. *Bale v. Perryman*, 85 Idaho 435, 380 P.2d 501 (1963).

Even though the act of the pickup truck driver in moving to the right shoulder of the highway might have been legitimately considered as an invitation to pass, the act of the truck driver in attempting to pass the pickup truck when within 100 feet of, or traversing, the intersection and in failing to sound his horn was concurrent with negligence of pickup driver in failing to properly maneuver for a left hand turn. *Woodman v. Knight*, 85 Idaho 453, 380 P.2d 222 (1963).

Negligence Per Se.

It is generally held that in civil actions for damages where injury occurs as a proximate result of a violation of a statute enacted for the protection of motorists, such violation

constitutes negligence per se. *Bale v. Perryman*, 85 Idaho 435, 380 P.2d 501 (1963).

A driver would not be guilty of negligence per se under former law that prohibited driving to the left of center of roadway, when approaching a curve or within 100 feet of an intersection, when he attempts to overtake another driver and collides with him, when the other driver attempts to turn onto an obscure private road. *Vincen v. Lazarus*, 93 Idaho 145, 456 P.2d 789 (1969).

Where uncontroverted evidence indicates that plaintiff was operating his vehicle on left side of highway while traversing an intersection, such conduct is negligence per se, absent any excuse or justification therefor. *Bradbury v. Voge*, 93 Idaho 360, 461 P.2d 255 (1969).

No-Passing Zone.

The function of determining and marking hazardous zones is an administrative, not a legislative function, and the highway department (now department of transportation) had the power to determine where overtaking would be hazardous and to mark such places with no-passing signs. *Howard v. Missman*, 81 Idaho 82, 337 P.2d 592 (1959).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 247 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 556.

A.L.R. — What is street intersection within traffic statute or regulations. 7 A.L.R.3d 1204.

49-636. One-way highways. — Upon a highway designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by traffic-control devices. [I.C., § 49-628, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 165, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 165 of S.L. formerly compiled as § 49-628 and was 1988, ch. 265 to become this section.

49-637. Driving on highways laned for traffic. — Whenever any highway has been divided into two (2) or more clearly marked lanes for traffic the following, in addition to all else, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety.

(2) Upon a highway which is divided into three (3) lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when the center lane is clear of traffic within a safe distance, or in preparation for making a left-turn or where the center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and the allocation is designated by a traffic-control device.

(3) Traffic-control devices may be erected directing specified traffic to use a designated lane, or designate those lanes to be used by traffic moving in a particular direction, regardless of the center of the highway and drivers of vehicles shall obey the directions of every device.

(4) Traffic-control devices may be installed prohibiting the changing of lanes on sections of highways and drivers of vehicles shall obey the directions of every device. [I.C., § 49-629, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 166, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 166 of S.L. formerly compiled as § 49-629 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: Dabestani ex rel. Dabestani v. Bellus, 131 Idaho 542, 961 P.2d 633 (1998).

49-638. Following too closely. — (1) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicle, the traffic upon and the condition of the highway.

(2) The driver of any motor vehicle drawing another vehicle when traveling upon a highway outside of a business or residential district and which is following another motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy the space without danger. This shall not prevent a motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

(3) Motor vehicles being driven upon any highway outside of a business or residential district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each vehicle or combination of vehicles in order to enable any other vehicle to enter and occupy the space without danger. This provision shall not apply to funeral processions. [I.C., § 49-630, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 167, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 167 of S.L. formerly compiled as § 49-630 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: State v. Bettwieser, 143 Idaho 582, 149 P.3d 857 (Ct. App. 2006).

DECISIONS UNDER PRIOR LAW

Jury Question.

Whether or not plaintiff's truck driver was following too closely, or traveling too fast, was a jury question, the truck having tipped over in an attempt to avoid collision with the

preceding car which had signaled for a left turn, started to execute it and then returned to the right-hand side of the road in front of truck driver. Eckman v. Jones, 85 Idaho 10, 375 P.2d 180 (1962).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 246.

C.J.S. — 60 C.J.S., Motor Vehicles, § 639 et seq.

49-639. Turning out of slow moving vehicles. — On a two-lane highway outside an urban area where passing is unsafe due to oncoming traffic or other conditions, the driver of a vehicle traveling slower than the normal speed of traffic and behind which three (3) or more vehicles are formed in line, shall turn off the roadway at the nearest place designated as a turnout or wherever sufficient area for a safe turnout exists, in order to permit the following vehicles to pass. [I.C., § 49-634, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 168, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 168 of S.L. formerly compiled as § 49-634 and was 1988, ch. 265 to become this section.

49-640. Vehicles approaching or entering unmarked or uncontrolled intersection. — (1) When two (2) vehicles approach or enter an unmarked or uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(2) The right of way rule declared in subsection (1) of this section is modified as follows:

- (a) At "T" intersections where one (1) highway ends when it meets a second highway not ending at that point of convergence. When two (2) vehicles approach or enter a "T" intersection from different directions at approximately the same time, the driver of the vehicle on the highway ending at the intersection shall yield the right of way to the other vehicle;
- (b) At through highways; and
- (c) Otherwise as stated in this title. [I.C., § 49-641, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 169, p. 549; am. 1996, ch. 403, § 1, p. 1336.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-641 and was amended and redesignated by § 169 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Approach to intersection.
 Defenses.
 Duty to keep a lookout.
 Failure to install control devices.
 Intersection.
 Negligence per se.
 Right of way.

Approach to Intersection.

Because two vehicles collided within the intersection and no evidence was adduced at trial that either driver varied his or her speed as they approached the intersection, it was reasonable for the magistrate to infer that they approached the intersection at approximately the same time. *State v. Morgan*, 134 Idaho 331, 1 P.3d 832 (Ct. App. 2000).

Where two drivers collided at an uncontrolled intersection, plaintiff driver was not entitled to recover personal injury damages from defendant driver because each driver was 50 percent negligent for failing to keep a proper lookout. *Vaughn v. Porter*, 140 Idaho 470, 95 P.3d 88 (Ct. App. 2004).

Defenses.

Defendant's claim of an obstructed view did not provide him with an absolute defense to an infraction charge under this section, because, if his view was obstructed, he should have slowed to an appropriate speed, or even come to a stop if necessary, so that he could sufficiently regard any approaching vehicles. *State v. Morgan*, 134 Idaho 331, 1 P.3d 832 (Ct. App. 2000).

Duty to Keep a Lookout.

This section does not place the sole duty of care upon the driver of the vehicle on the left, as Idaho law requires that all drivers keep a proper lookout. *Vaughn v. Porter*, 140 Idaho 470, 95 P.3d 88 (Ct. App. 2004).

Failure to Install Control Devices.

Failure of local authorities to install traffic control devices at a "T" intersection where a

street terminates at its junction with a main arterial thoroughfare does not interfere with or frustrate the legislature's intent regarding the regulation of traffic. The failure to install control devices simply triggers the application of this section, expressing the legislature's intent concerning progression of motor vehicles at intersections unregulated by traffic control signs or devices. *State v. Bennion*, 115 Idaho 181, 765 P.2d 692 (Ct. App. 1988).

Intersection.

A junction where one of the two roads terminates at the convergence of the two roads without crossing and continuing on past the other road is an intersection within the right-of-way rule expressed in this section. *State v. Bennion*, 115 Idaho 181, 765 P.2d 692 (Ct. App. 1988).

Negligence Per Se.

Where two cars collided at an uncontrolled intersection, defendant's violation of this section by failing to yield, and his driving speed if he was exceeding the 25 m.p.h. speed limit, were negligence per se. *Vaughn v. Porter*, 140 Idaho 470, 95 P.3d 88 (Ct. App. 2004).

Right of Way.

Under this section, a vehicle that has entered an unmarked intersection first is not automatically granted the right of way over another vehicle, because the section specifically provides that the driver of the approaching vehicle on the left shall yield the right of way to the approaching vehicle on the right. *State v. Morgan*, 134 Idaho 331, 1 P.3d 832 (Ct. App. 2000).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Entering intersection at same time.
 Excessive speed.
 Instructions.
 Jury questions.
 Proximate cause.

Entering Intersection at Same Time.

Two vehicles are to be considered as entering an intersection at approximately the same time when they approach so nearly at the same time that there would be imminent hazard of a collision if both continued the same course at the same speed. *Coughran v. Hickox*, 82 Idaho 18, 348 P.2d 724 (1960).

Excessive Speed.

Motorist forfeits right of way if proceeding at an excessive speed. *Bell v. Carlson*, 75 Idaho 193, 270 P.2d 420 (1954).

If defendant was observing traffic rules and the intersection collision was proximately caused by plaintiff's excessive and dangerous rate of speed, plaintiff could not rely on right of way to recover against defendant. *Coughran v. Hickox*, 82 Idaho 18, 348 P.2d 724 (1960).

With evidence that plaintiff entered an uncontrolled intersection at 25 miles per hour and was struck by defendant in the middle of the intersection and that defendant approached the intersection at 45 to 50 miles per hour, seeing plaintiff's car entering the intersection when 60 feet from intersection, and applied his brakes, leaving skid marks of 42 1/2 feet, it was error for the trial court to set aside a verdict for plaintiff and enter judgment for defendant non obstante. *Loosli v. Bollinger*, 90 Idaho 464, 413 P.2d 684 (1966), overruled on other grounds, *Mann v. Safeway Stores, Inc.*, 95 Idaho 732, 518 P.2d 1194 (1974).

Instructions.

Giving instruction to jury which consisted of the former section which governed vehicles approaching or entering an intersection was proper in explaining the statutory duty of drivers approaching an intersection. More-

over, trial court's failure to amplify such instruction by instruction defining the various terms used in the statute was not error in the absence of a request for such instruction. *Mendenhall v. MacGregor Triangle Co.*, 83 Idaho 145, 358 P.2d 860 (1961).

It was not error for the court to refuse an instruction embodying the provisions of the former section governing the right of way at intersections of different highways in an action involving a collision at the intersection of a through highway and a local street. *Sanders v. Hamilton*, 91 Idaho 225, 419 P.2d 667 (1966).

An instruction which contained, verbatim, the provision of former law that provided right-of-way rules for vehicles entering an intersection was not error. *Holland v. Peterson*, 95 Idaho 728, 518 P.2d 1190 (1974).

Jury Questions.

In an action for damages in a head-on collision between an automobile and a truck at a Y intersection, whether the automobile was on its right-hand side of the highway at the moment of the accident and the motorist's speed were jury questions. The rule is, that where minds of reasonable men might differ, or where different conclusions might be reached, the existence of negligence or contributory negligence are generally for the jury. *Stallinger v. Johnson*, 65 Idaho 101, 139 P.2d 460 (1943).

Proximate Cause.

The trial court's finding that the icy road condition was the proximate cause of the accident cannot serve as justification for the conclusion that the respondent was excused from liability because he was prudent in the operation of his vehicle. *Haakonstad v. Hoff*, 94 Idaho 300, 486 P.2d 1013 (1971).

RESEARCH REFERENCES

A.L.R. — Liability for collision of automobile with pedestrian at intersection as affected by reliance upon or disregard of stop-and-go signal. 2 A.L.R.3d 155; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

Liability for automobile accident at inter-

section as affected by reliance upon or disregard of "yield" sign or signal. 2 A.L.R.3d 275; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

What is an intersection of streets within the meaning of regulations as to automobiles. 7 A.L.R.3d 1204.

49-641. Vehicle turning left. — The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection, or so close as to constitute an immediate hazard. [I.C., § 49-642, as added by 1977, ch. 152, § 3, p. 337; am. and redesi. 1988, ch. 265, § 170, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-642 and was amended and redesignated by § 170 of S.L. 1988, ch. 265 to become this section.

Former § 49-641 was amended and redesignated as § 49-640 by § 169 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

ANALYSIS

Failure to signal.
Failure to yield right-of-way.
Instructions.

Failure to Signal.

A truck driver's negligence in slowing down or starting left turn into intersecting road, without giving the signal of such intention to a driver of a following vehicle, was the "proximate cause" of a fatal injury to such driver and the damage to his truck when he crashed into a tree at the corner of an intersection after hitting side of front truck in attempting to pass it on the left. *Madron v. McCoy*, 63 Idaho 703, 126 P.2d 566 (1942).

Failure to Yield Right-of-Way.

Where the defendant's car was struck in the northbound lane of traffic by a vehicle proceeding north, and her car was severely damaged, but was not pushed far sideways by the impact, a trier of fact reasonably could have

inferred that the defendant failed to yield to an oncoming vehicle that was close enough to constitute an apparent, immediate hazard. *State v. Palmer*, 114 Idaho 895, 761 P.2d 1247 (Ct. App. 1988).

Instructions.

It was not error for the court to refuse an instruction quoting the provisions of the former section governing left turns at intersections in an action involving the collision of a motorist who, at the time of the collision, had completed his left turn and was proceeding on the intersecting highway when he was struck by a motorist on the other strip of the divided highway he had turned off of. *Sanders v. Hamilton*, 91 Idaho 225, 419 P.2d 667 (1966).

49-642. Vehicle entering highway. — The driver of a vehicle about to enter or cross a highway from any place other than another highway shall yield the right-of-way to all vehicles approaching on the highway to be entered or crossed. [I.C., § 49-644, as added by 1977, ch. 152, § 3, p. 337; am. and redesignig. 1988, ch. 265, § 171, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-644 and was amended and redesignated by § 171 of S.L. 1988, ch. 265 to become this section.

Former § 49-642 was amended and redesignated as § 49-641 by § 170 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Instructions.
Trial.
—View of scene.

Instructions.

The instructions did not prevent plaintiff from presenting her theory to the jury, and although the inclusion of an instruction on a

driver's duty to yield the right of way pursuant to this section would have been permissible, it was not essential, because the instructions that were given, as a whole, fairly and

adequately presented the issues and the applicable law. *Priest v. Landon*, 135 Idaho 898, 26 P.3d 1235 (Ct. App. 2001).

Trial.

—View of Scene.

Magistrate did not err when she refused to view the scene of an accident or view defen-

dant's vehicle during a prosecution for failure to yield the right-of-way. *State v. Hines*, 117 Idaho 198, 786 P.2d 589 (Ct. App. 1990).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Approaching vehicles.
Instructions.

Approaching Vehicles.

A vehicle more than 690 feet distant from and moving toward the point where a defendant entered the highway was not "approaching" within the meaning of the former section governing the right of way for vehicles approaching on the highway. *Reed v. Green*, 90 Idaho 526, 414 P.2d 445 (1966).

Instructions.

An instruction given by court stating that "the driver of a vehicle about to enter or cross a highway from a private road or driveway shall yield the right of way to all vehicles approaching on said highway" set out fully the duty of the defendant in the operation of her automobile as it was approaching the intersection of the street and private driveway at the same time plaintiff was approaching from the driveway in suit involving injury

sustained by minor plaintiff as he rode his motor scooter from the private driveway into the street and was struck by defendant's car. *Gayhart v. Schwabe*, 80 Idaho 354, 330 P.2d 327 (1958).

Where the evidence showed the driveway out of which the defendant was alleged to have emerged upon the highway was lined with trees, such trees would not excuse defendant's alleged violation of the former section requiring drivers entering a highway to yield the right of way, and, there being no other possible excuse shown, it was error for the court to instruct the jury that the presumption of negligence arising from violation of the statute might be overcome by showing circumstances making compliance impossible. *Werth v. Tromberg*, 90 Idaho 204, 409 P.2d 421 (1965).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 287.

C.J.S. — 60A C.J.S., Motor Vehicles, § 687 et seq.

49-643. Highway construction and maintenance. — (1) The driver of a vehicle shall yield the right-of-way to any vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by traffic-control devices.

(2) The driver of a vehicle shall yield the right-of-way to any authorized vehicle obviously and actually engaged in work upon a highway whenever that vehicle displays flashing lights meeting the requirements adopted by the board. [I.C., § 49-646, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 172, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-646 and was amended and redesignated by § 172 of S.L. 1988, ch. 265 to become this section.

Former § 49-643 was amended and redesignated as § 49-807 by § 221 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Work Upon Highway.

The superintendent of a road construction project driving a pickup truck from the construction site where "subgrade" was being dumped to the place where the material was being loaded was not actually engaged in

working upon the surface of the highway within the meaning of former law regarding person working upon the surface of a highway, but was traveling to and from work. *Kidd v. Gardner Associated, Inc.*, 92 Idaho 548, 447 P.2d 414 (1968).

49-644. Required position and method of turning. — The driver of a vehicle intending to turn shall do so as follows:

(1) Both the approach for a right turn and the right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction on the highway being entered.

(3) Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by traffic-control devices:

(a) A left turn shall not be made from any other lane;

(b) A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the highway or when preparing for or making a U-turn when otherwise permitted by law. [I.C., § 49-661, as added by 1977, ch. 152, § 3, p. 337; am. and redesi. 1988, ch. 265, § 173, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-661 and was amended and redesignated by § 173 of S.L. 1988, ch. 265 to become this section.

Former § 49-644 was amended and redesignated as § 49-642 by § 171 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: *Ahles v. Tabor*, 136 Idaho 393, 34 P.3d 1076 (2001).

DECISIONS UNDER PRIOR LAW

Negligence.

The driver of a pickup truck which was being followed by a truck and trailer violated three former statutory provisions in that (1) he did not approach the intersection for a left turn in that portion of the right half of the roadway nearest the center line thereof; (2) he turned his vehicle to the left upon the highway when such movement could not be made with reasonable safety; and (3) he gave no signal of his intention to turn when the truck

behind him would be affected by such movement, and such acts and omissions on his part constituted negligence. *Woodman v. Knight*, 85 Idaho 453, 380 P.2d 222 (1963).

Where host driver proceeding north on four-lane highway, with divider strip, made a U-turn and crossed over southbound inside lane and entered outside lane, where her vehicle was struck from rear, she was guilty of negligence under former law providing rule for proper position and method of turning at

intersections, in not entering inside lane, and where her left turn indicator indicated that she intended to enter inside lane, it was within the province of the jury to determine

whether or not the facts constituted gross negligence. *Loving v. Freeman*, 93 Idaho 426, 462 P.2d 519 (1969).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, §§ 265-268.

C.J.S. — 60A C.J.S., Motor Vehicles, § 749 et seq.

A.L.R. — Liability for collision of automobile with pedestrian at intersection as affected by reliance upon or disregard of stop-and-go signal. 2 A.L.R.3d 155; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

Liability for automobile accident at intersection as affected by reliance upon or disregard of "yield" sign or signal. 2 A.L.R.3d 275; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

Motor vehicle accidents involving right turns from lane other than right-hand lane. 7 A.L.R.3d 282.

Liability for U-turn collisions. 53 A.L.R.4th 849.

49-645. Limitations on turning around. — (1) The driver of any vehicle shall not turn the vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

(2) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where the vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred (500) feet, or where a no-passing zone has been established. [I.C., § 49-662, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 174, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-662 and was amended and redesignated by § 174 of S.L. 1988, ch. 265 to become this section.

Former § 49-645 was amended and redesignated as § 49-625 by § 156 of S.L. 1988, ch. 265.

49-646. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-646 was amended and redesignated as § 49-643 by § 172 of S.L. 1988, ch. 265.

49-647. [Reserved.]

49-648. Obedience to signal indicating approach of train. — (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad, and shall not proceed until he can do so safely. These requirements shall apply when:

(a) A stop sign is in place and there is an absence of any mechanical warning signals;

- (b) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
- (c) A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train;
- (d) A railroad train approaching within approximately fifteen hundred (1,500) feet of the highway crossing emits a signal audible from that distance and the railroad train, by reason of its speed or nearness to the crossing, is an immediate hazard;
- (e) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed. [I.C., § 49-671, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 175, p. 549; am. 1998, ch. 13, § 1, p. 112.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 175 of S.L. formerly compiled as § 49-671 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

ANALYSIS

Contributory negligence.
Misdemeanor.
Negligence of passenger.
Negligence per se.
Question for jury.
Stopping at crossing.

Contributory Negligence.

Where collision occurred at night with the weather misty and cloudy, and railroad crossing on driver's side of the highway had no warning sign, and where evidence showed that at night an approaching train was not "clearly visible" it could not be said that driver of motor vehicle was guilty of contributory negligence in train-automobile collision. *Union Pac. R.R. v. Hormaechea*, 418 F.2d 990 (9th Cir. 1969).

An automobile passenger, who had knowledge of approaching railroad crossing, location of which passenger knew, was contributorily negligent in allowing motorist who also had knowledge of approaching crossing, to drive into train passing over the crossing on an extremely foggy night. *Ranstrom v. Oregon Short Line R.R.*, 18 F. Supp. 256 (D. Idaho 1936).

Where the driver of a motor vehicle fails to comply with the rules governing railroad grade crossings and, thereby, receives injuries, his contributory negligence will forbid

recovery provided he was in a position that he could have so complied. *Ralph v. Union P.R.R.*, 82 Idaho 240, 351 P.2d 464 (1960).

Where last 50 feet of approach to the grade crossing was unobstructed so that passenger was bound to have seen the train approaching and being thus charged with knowledge of the approaching train, in absence of an emergency, it was his duty to warn the driver or take other appropriate action to avoid injury, and his failure to do so constituted contributory negligence. *Yearout v. Chicago, M., St. P. & P.R.R.*, 82 Idaho 466, 354 P.2d 759 (1960).

This case which involved a train occupying a crossing which was not plainly visible, which train was run into by a woman driving an automobile at night, and which crossing had a yellow flashing light overhead, presented a question for the jury of the woman driver's contributory negligence. *Van v. Union P.R.R.*, 83 Idaho 539, 366 P.2d 837 (1961).

Misdemeanor.

Failure of driver to stop at railroad crossing marked by stop sign constituted a misde-

meanor. *Ineas v. Union P.R.R.*, 72 Idaho 390, 241 P.2d 1178 (1952).

Negligence of Passenger.

Passenger in truck could not recover from railroad where driver failed to heed stop sign, and canvas covering in upper panel of truck door obstructed view at heavily traveled crossing, if at time of accident there was no other traffic, since passenger was guilty of contributory negligence. *Ineas v. Union P.R.R.*, 72 Idaho 390, 241 P.2d 1178 (1952).

Negligence Per Se.

Failure to stop truck before driving across railroad crossing marked by stop sign was negligence per se. *Ineas v. Union P.R.R.*, 72 Idaho 390, 241 P.2d 1178 (1952).

Question for Jury.

In suit to recover for injuries sustained when driver ran into train occupying a crossing at night, the jury inferentially found that the crossing was an extra hazardous one,

imposing extra duties upon the railroad company, where it found in favor of the driver under an instruction asking for a determination as to whether the railroad company should have anticipated that a motorist exercising due care and with standard lights would likely be injured by running into the side of the train. *Van v. Union P.R.R.*, 83 Idaho 539, 366 P.2d 837 (1961).

Stopping at Crossing.

The stopping, required by the former statute, of a motorist approaching a railway crossing, after giving of clearly visible and positive signal warning of train's approach, must be effective for traveler's safety and is governed by requirements as to looking and listening, and it is the duty of a traveler, who knows or should know of apparent or further danger after starting onto the crossing, to stop, look and listen again, if he may with safety. *Whiffin v. Union P.R.R.*, 60 Idaho 141, 89 P.2d 540 (1931).

RESEARCH REFERENCES

A.L.R. — Existence and conditions of lights on automobile as affecting right of owner or operator to recover for injury at railroad

crossing. 61 A.L.R.3d 13; 62 A.L.R.3d 560; 62 A.L.R.3d 771; 62 A.L.R.3d 844; 63 A.L.R.3d 824.

49-649. Compliance with stopping requirement at all railroad grade crossings. — (1) The driver of any vehicle stopped at a railroad grade crossing shall listen and look in both directions along the track for any approaching train, and for signals indicating the approach of a train and shall not proceed until he can do so safely. Upon proceeding when it is safe to do so the driver shall cross only in a gear of the vehicle in order that there will be no necessity for manually changing gears while traversing the crossing, and the driver shall not manually shift gears while crossing the tracks.

(2) This section shall not apply at:

- (a) Any railroad grade crossing at which traffic is controlled by a peace officer or flagman;
- (b) Any railroad grade crossing at which traffic is regulated by a traffic-control signal;
- (c) Any railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train; or
- (d) Any railroad grade crossing at which a traffic-control device gives notice that the stopping requirement imposed by this section does not apply. [I.C., § 49-673, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 176, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 176 of S.L. formerly compiled as § 49-673 and was 1988, ch. 265 to become this section.

49-650. Moving heavy equipment at railroad grade crossings. —

(1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half (1/2) inch per foot of the distance between any two (2) adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a highway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Notice of intended crossing shall be given to a station agent of the railroad and a reasonable time be given to the railroad to provide proper protection at the crossing.

(3) Before making the crossing the person operating or moving the vehicle or equipment shall first stop not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of the railroad and while so stopped shall listen and look in both directions along the track for any approaching train or for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(4) No crossing shall be made when warning is given by automatic signal, crossing gates, a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction. [I.C., § 49-674, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 177, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 177 of S.L. formerly compiled as § 49-674 and was 1988, ch. 265 to become this section.

49-651. Emerging from alley, driveway or building. — The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residential district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the highway to be entered where the driver has a view of approaching traffic. [I.C., § 49-675, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 178, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 178 of S.L. formerly compiled as § 49-675 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Violation as Negligence.

While the violation of a statute by an adult constitutes negligence as a matter of law, a like violation by a child of tender years does

not constitute such negligence; the question is for the jury. *Davis v. Bushnell*, 93 Idaho 528, 465 P.2d 652 (1970).

49-652, 49-653. [Reserved.]

49-654. Basic rule and maximum speed limits. — (1) No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding highway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(2) Where no special hazard or condition exists that requires lower speed for compliance with subsection (1) of this section the limits as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of the maximum limits:

- (a) Thirty-five (35) miles per hour or a lesser maximum speed adopted pursuant to section 49-207(2)(a), Idaho Code, in any residential, business or urban district;
- (b) Thirty-five (35) miles per hour in any urban district;
- (c) Seventy-five (75) miles per hour on interstate highways;
- (d) Sixty-five (65) miles per hour on state highways;
- (e) Fifty-five (55) miles per hour in other locations unless otherwise posted up to a maximum of sixty-five (65) miles per hour.

(3) The maximum lawful speed limit on interstate highways shall not exceed sixty-five (65) miles per hour for vehicles with five (5) or more axles operating at a gross weight of more than twenty-six thousand (26,000) pounds. [I.C., § 49-681, as added by 1977, ch. 152, § 3, p. 337; am. 1977, ch. 151, § 1, p. 335; am. 1987, ch. 280, § 1, p. 590; am. and redesign. 1988, ch. 265, § 179, p. 549; am. 1989, ch. 89, § 1, p. 210; am. 1991, ch. 100, § 3, p. 221; am. 1996, ch. 270, § 4, p. 872; am. 1997, ch. 155, § 6, p. 438; am. 1997, ch. 377, § 1, p. 1207; am. 1998, ch. 158, § 1, p. 534.]

STATUTORY NOTES

Amendments. — This section was amended by two 1997 acts — ch. 155, § 6 and ch. 377, § 1, both effective July 1, 1997 — which do not appear to conflict and have been compiled together.

The 1997 amendment, by ch. 155, § 6, in subdivision (2)(a) substituted “business or” for “neighborhood of any” preceding “urban district”.

The 1997 amendment, by ch. 377, § 1, in subdivision (2)(d) substituted “on state highways” for “in other locations” and created subdivision (2)(e) by transferring “in other locations” to subdivision (2)(e) from subdivision (d) and adding “fifty-five (55) miles per hour” and “unless otherwise posted up to a maximum of sixty-five (65) miles per hour”.

Compiler's Notes. — This section was

formerly compiled as § 49-681 and was amended and redesignated by § 179 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 2 of S.L. 1989, ch. 89 declared an emergency. Approved March 27, 1989.

Section 5 of S.L. 1996, ch. 270 provided that the act shall be in full force and effect on and after May 1, 1996.

JUDICIAL DECISIONS

ANALYSIS

Instructions.

Laser speed detection devices.

Proximate cause.

Radar traffic devices.

Special hazard.

Speed.

—Evidence.

—Negligence.

—Valid stop.

—Obstruction of justice.

Spotting and chase officers.

Instructions.

Instruction based on subsection (2) of this section prejudiced plaintiff's rights and was grounds for granting a new trial; instruction made it negligence per se for plaintiff to be driving in excess of thirty five miles per hour when the accident happened even though the speed limit should have been forty five miles per hour based on brooming by contractor. *Dabestani ex rel. Dabestani v. Bellus*, 131 Idaho 542, 961 P.2d 633 (1998).

Laser Speed Detection Devices.

Laser speed detection devices are generally reliable and their results may be admitted into evidence in Idaho courts. *State v. Williamson*, — Idaho —, 166 P.3d 387 (Ct. App. 2007).

Proximate Cause.

A plaintiff in a civil action is not relieved from proving proximate cause even though the negligence found is a result of the violation of the maximum speed limits set out in this section. *Griffith v. Schmidt*, 110 Idaho 235, 715 P.2d 905 (1985).

Radar Traffic Devices.

On the basis of decided cases in other jurisdictions, and in the absence of a relevant statute, the Idaho Court of Appeals accepted the general reliability of radar traffic devices. *State v. Kane*, 122 Idaho 623, 836 P.2d 569 (Ct. App. 1992).

The question of the accuracy of the radar unit in a speeding case was addressed by the officer's testimony that he was qualified to operate the machine, that the unit was properly maintained and that it was used correctly. It is necessary that these questions be proved in each speeding prosecution and they were proven; therefore, the magistrate did not

err in admitting the radar results as evidence that defendant was traveling at an excessive rate of speed. *State v. Kane*, 122 Idaho 623, 836 P.2d 569 (Ct. App. 1992).

Special Hazard.

In action for damages due to collision between car and motorcycle where jury could find that seven-year-old plaintiff motorcycle rider was a special hazard under this section and that defendant could have exercised proper precaution, there was no basis to find that defendant owed no duty to plaintiff and that defendant's conduct, as a matter of law, could not be the proximate cause of the accident; and, thus, court erred in issuing order for summary judgment. *Robinson v. Westover*, 101 Idaho 766, 620 P.2d 1096 (1980).

Speed.

—Evidence.

Where the 16-year-old defendant driver acknowledged that he had been driving too fast for conditions on the wet bridge surface, that he was not thinking but "just reacting" after his car "fishtailed" as he passed other traffic, that he was approximately 60 feet behind plaintiff's vehicle when he stopped "fishtailing" and applied the brakes, but that when he realized the car was not slowing sufficiently, he panicked and instead of pumping the brakes, he just hit them real hard, the evidence established, as a matter of law, that the defendant had violated this section's "basic rule" concerning a reasonable and prudent speed for the conditions present. *Johnson v. Emerson*, 103 Idaho 350, 647 P.2d 806 (Ct. App. 1982).

—Negligence.

This section is a safety statute, enacted for the protection of motorists and other persons

using this state's roads and highways, and, where an injury occurs as a proximate result of a violation of this section, the violation constitutes negligence per se unless excused or justified. *Johnson v. Emerson*, 103 Idaho 350, 647 P.2d 806 (Ct. App. 1982).

The maximum speed contained in this section is a safety statute and the violation of this positive inhibition is negligence per se. *Griffith v. Schmidt*, 110 Idaho 235, 715 P.2d 905 (1985).

A violation of this section constitutes negligence per se. *Wise v. Fiberglass Sys.*, 110 Idaho 740, 718 P.2d 1178 (1986).

—Valid Stop.

—Obstruction of Justice.

Where defendant was exceeding the speed limit, the stop was valid and did not constitute an unreasonable search and the officer's request for defendant's license, registration and proof of insurance was a lawful and authorized act, and her refusal to produce

those documents constituted obstructing and delaying an officer in the performance of a duty of his office. *State v. George*, 127 Idaho 693, 905 P.2d 626 (1995).

Spotting and Chase Officers.

Defendant's conviction for exceeding the speed limit was appropriate where the state presented testimony that defendant's vehicle was witnessed by the spotting officer as traveling at 76 miles per hour in a zone where the maximum speed limit was 55 miles per hour. The state also presented testimony that the chase officer was directed specifically to defendant's vehicle by the spotting officer and that the chase officer identified defendant as the man he stopped and cited. *State v. Williamson*, — Idaho —, 166 P.3d 387 (Ct. App. 2007).

Cited in: *Martin v. Hackworth*, 127 Idaho 68, 896 P.2d 976 (1995); *State v. Morgan*, 134 Idaho 331, 1 P.3d 832 (Ct. App. 2000).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Contributory negligence.

Creation of peril.

Duty in approaching intersection.

Evidence as to speed.

Inclusion in reckless driving.

Instructions.

Question for jury.

Speed as negligence.

Speed on entering intersection.

Contributory Negligence.

Where the driver of a motor vehicle failed to comply with the former statutes which governed railroad grade crossings and the basic speed limits and, thereby, received injuries, his contributory negligence would forbid recovery provided he was in a position that he could have so complied. *Ralph v. Union P.R.R.*, 82 Idaho 240, 351 P.2d 464 (1960).

Even if the jury determined that driver maintained proper look-out and actually saw the truck, from the facts they still reasonably could have found that driver failed to act as a reasonably prudent person under the circumstances in attempting to race the truck through the intersection and under either interpretation, which was for the determination of the jury, contributory negligence could have been found. *Drury v. Palmer*, 84 Idaho 558, 375 P.2d 125 (1962).

There might have been merit in plaintiff's contention as to the reasonableness of defendant's speed under existing road conditions, were it not for the fact that the road upon which plaintiff's decedent was traveling was controlled by a "stop" sign. *Stucki v. Loveland*,

93 Idaho 253, 460 P.2d 388 (1969).

Creation of Peril.

Where motorist, with setting sun shining into front of automobile, was driving at an unlawful speed when approaching crest of grade, and before reaching crest, and when he could not see a sufficient distance ahead, suddenly attempted to pass a car ahead, in violation of statute, such motorist created the imminent danger and peril and was, therefore, liable for damages growing out of collision with an automobile approaching from the opposite direction, notwithstanding driver of other automobile became confused and may not have acted wisely in operating his car. *Little v. Ireland*, 30 F. Supp. 653 (D. Idaho 1939).

Duty in Approaching Intersection.

A motorist approaching an intersection must look in such prudent and careful manner as to enable him to see what a person in the exercise of ordinary care and caution for the safety of himself and others would have seen under like circumstances, having a duty imposed upon him of being observant as to the

traffic and general situation at or in the intersection. *Drury v. Palmer*, 84 Idaho 558, 375 P.2d 125 (1962).

After a vehicle crossing the highway lawfully gained entry upon the highway, vehicles approaching in the interim period between commencement and completion of the crossing were under the duty either to slow down or stop. *Reed v. Green*, 90 Idaho 526, 414 P.2d 445 (1966).

Evidence as to Speed.

In a prosecution of motorist for manslaughter, the testimony of drivers of automobiles which defendant attempted to pass, and parties working in fields and residing near the scene of the accident, regarding speed, was admissible. *State v. Monteith*, 53 Idaho 30, 20 P.2d 1023 (1933).

Defendant alleged he was prejudiced by the admission of the exhibit showing that the state board of highway directors fixed and designated 35 miles per hour as the reasonable, safe, prima facie speed limit upon a certain portion of U.S. Highway 30. He could not make a showing of prejudice because he did not subpoena witness to establish his contention, and because the section of the highway where the collision occurred was in an "urban district" where 35 miles per hour was the prima facie speed limit. *State v. Wendler*, 83 Idaho 213, 360 P.2d 697 (1961).

Refusal of the trial court to permit a witness to testify as to the speed of a truck involved in an accident on occasions prior to the accident, such testimony being irrelevant and offered only for the purpose of impeachment, was not error, such testimony being inadmissible. *Eckman v. Jones*, 85 Idaho 10, 375 P.2d 180 (1962).

Where the evidence showed that defendant operated a motor vehicle at a speed of seventy-five miles per hour in a sixty-mile-an-hour zone, but that no actual or potential condition or hazard existed that would render such speed unreasonable or imprudent, defendant was not guilty of the violation of the former law which set the maximum speed limits. *State v. Trimming*, 89 Idaho 440, 406 P.2d 118 (1965).

Inclusion in Reckless Driving.

Violation of former law that provided the basic rules and prima facie limits of the speed at which a vehicle should be driven under regular conditions and where special hazards exist was an included offense in a complaint for reckless driving consisting of "wilfully, knowingly, intentionally, unlawfully, carelessly and heedlessly, and without due caution and circumspection, and at a speed and in a manner so as to endanger persons and property" operating a specified motor vehicle. *State v. Pruett*, 91 Idaho 537, 428 P.2d 43 (1967).

Instructions.

Where a collision occurred in the country, near no schoolhouse, and not near enough to a railroad crossing or highway intersection to make the former section which governed the appropriate speed when approaching such areas applicable, it was error for the court to read inapplicable portions of that former section to the jury. *State v. Calico*, 55 Idaho 96, 38 P.2d 1002 (1934).

In actions for death of mother and child, whom mother was pursuing across highway when hit by a truck, instruction that the statute made it prima facie lawful to drive at certain speed, except in the vicinity of grade crossings, schools or obstructed intersections of highways, was erroneous, in absence of allegation or proof that accident occurred near one of such places. *Asumendi v. Ferguson*, 57 Idaho 450, 65 P.2d 713 (1937).

Where court committed error in trial of death action in instructing jury as to statutory speed limits not involved in case, such error was not reversible error, where instruction did not result in substantial injury to defendant. *Gardner v. Hobbs*, 69 Idaho 288, 206 P.2d 539 (1949).

Assignment of error in giving instruction in automobile collision case as to prima facie speed limits was without merit where it was shown that there was no issue as to speed limits, the posted speed at the scene of the accident being 35 miles per hour inasmuch as the evidence showed appellant was not violating speed limit at the time of the accident. *Morford v. Brown*, 85 Idaho 480, 381 P.2d 45 (1963).

Instruction, that if wrecker driver was exercising ordinary care he had a right to assume that every other person using the highway would be driving at a reasonable and prudent speed and so controlled as to avoid colliding with any person or vehicle on or entering highway, improperly stated the law. *Hawkins v. Chandler*, 88 Idaho 20, 396 P.2d 123 (1964).

Where the road was hilly and the truck driven by appellant difficult to stop when not pulling a trailer because of danger of its skidding and wheels locking when sudden brake pressure was applied, such conditions were "special hazards," justifying the court in instructing the jury as to the former subsection which governed speed limits when special hazards were present. *Werth v. Tromberg*, 90 Idaho 204, 409 P.2d 421 (1965).

In a case where the plaintiff was driving his car on a state highway at night, it was proper to instruct the jury that speed in excess of 55 miles per hour in the nighttime was prima facie evidence that the speed was not reasonable and prudent. *Stanberry v. Gem County*, 90 Idaho 222, 409 P.2d 430 (1965).

An instruction in substantially the lan-

guage of the former section which required that the speed of a vehicle be reasonable under the conditions then existing was not erroneous where there was evidence that defendant had not stopped at a stop sign and that his speed in rounding a curve was excessive having regard to the actual and potential hazards and surrounding circumstances then existing. *Nichols v. Sonneman*, 91 Idaho 199, 418 P.2d 562 (1966).

In a damage action growing out of an automobile collision on a highway with heavy traffic and only two lanes open to traffic, it was proper to incorporate a portion of former law that provided that a vehicle should not be driven at a speed greater than was reasonable for existing conditions and hazards and that speed should be so controlled so as to avoid colliding with other persons or vehicles on the highway in compliance with the legal requirements and duty of all persons to use due care in a jury instruction, but provision of former law that provided that the driver of a vehicle should drive at an appropriate reduced speed approaching and crossing an intersection or railroad grade crossing, when approaching a crest, when traveling upon any narrow or winding road and when special hazards exist with respect to pedestrians and other traffic or by reason of weather conditions, should not have been included where the evidence showed no grade crossing, intersection, hillcrest, or narrow or winding roadway. *Fawcett v. Irby*, 92 Idaho 48, 436 P.2d 714 (1968), overruled on other grounds, *Salinas v. Vierstra* 107 Idaho 984, 695 P.2d 369 (1985).

In a damage case, growing out of an intersection collision, where the view of both drivers as they approached the intersection was obstructed until they reached the immediate vicinity of the obstruction, it was error to refuse plaintiff's request for an instruction on the duty of defendant to reduce speed when his view was so obstructed even though the court gave to the jury an instruction defining in general terms the duty of motorists under former law that provided that a driver should drive at a reduced rate of speed when special hazards exist with respect to other traffic. *Kidd v. Gardner Associated, Inc.*, 92 Idaho 548, 447 P.2d 414 (1968).

Question for Jury.

In an action for damages in a head-on collision between an automobile and a truck at a Y intersection, whether the automobile was on its right-hand side of the highway at the moment of the accident and the motorist's speed were jury questions, since the rule is, that where minds of reasonable men might differ, or where different conclusions might be reached by different minds, the questions as to negligence and contributory negligence are

generally for the jury. *Stallinger v. Johnson*, 65 Idaho 101, 139 P.2d 460 (1943).

Whether or not plaintiff's truck driver was following too closely, or traveling too fast, was a jury question, the truck having tipped over in an attempt to avoid collision with the preceding car which had signaled for a left turn, started to execute it and then returned to the right hand side of the road in front of truck driver. *Eckman v. Jones*, 85 Idaho 10, 375 P.2d 180 (1962).

Speed as Negligence.

It was not negligence as a matter of law to drive a motor vehicle at night at such speed that it could not be stopped short of objects appearing in the radius of its lights. *Hawkins v. Chandler*, 88 Idaho 20, 396 P.2d 123 (1964).

Evidence that the defendant in an action for damages from an automobile collision was driving at approximately fifty miles per hour without evidence of the speed limit on the road at that point and without evidence that such speed under the circumstances was imprudent was not evidence of negligence on the part of defendant. *Dreyer v. Zero Refrigeration Lines*, 92 Idaho 83, 437 P.2d 355 (1968).

Speed on Entering Intersection.

Charge of contributory negligence was not justified where plaintiff entered intersection at a speed slightly in excess of 15 miles an hour though view was partially obstructed and was hit by a car driven by defendant proceeding at a rate of 40 miles per hour. *Bell v. Carlson*, 75 Idaho 193, 270 P.2d 420 (1954).

If defendant was observing traffic rules and the intersection collision was proximately caused by plaintiff's excessive and dangerous rate of speed, plaintiff could not rely on the former right of way statute to recover against defendant. *Coughran v. Hickox*, 82 Idaho 18, 348 P.2d 724 (1960).

Where defendant's view of intersecting highway on his right was obstructed, it was his duty to drive at such an appropriate reduced speed that he could slow down or stop as need be when he reached a point where he could see a vehicle approaching from his right in such proximity as to give rise to the hazard of a collision should he proceed. *Coughran v. Hickox*, 82 Idaho 18, 348 P.2d 724 (1960).

Where the evidence showed that plaintiff entered an uncontrolled intersection at 25 miles per hour and was struck by defendant in the middle of the intersection and that defendant approached the intersection at 45 to 50 miles per hour, seeing plaintiff's car entering the intersection when 60 feet from the intersection, it was error for the trial court to set aside a verdict for plaintiff and enter judgment for defendant non obstante. *Loosli v. Bollinger*, 90 Idaho 464, 413 P.2d 684 (1966).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 241 et seq.

C.J.S. — 60A C.J.S., Motor Vehicles, § 578 et seq.

A.L.R. — Speed, alone or in connection with other circumstances, as gross negligence, wantonness, recklessness, or the like, under automobile guest statute. 6 A.L.R.3d 769.

Indefiniteness of automobile speed regulations as affecting validity. 6 A.L.R.3d 1326.

Admissibility in evidence, in automobile

negligence action, of charts showing braking distance, reaction times, etc. 9 A.L.R.3d 976.

Opinion testimony as to speed of motor vehicle based on skid marks and other facts. 29 A.L.R.3d 248.

Competency of nonexpert's testimony based on sound alone as to speed of motor vehicle involved in accident. 33 A.L.R.3d 1405.

Proof, by radar or other mechanical or electronic devices, of violation of speed regulations. 47 A.L.R.3d 822.

49-655. Minimum speed regulation. — No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with the law. [I.C., § 49-684, as added by 1977, ch. 152, § 3, p. 337; am. 1982, ch. 353, § 25, p. 874; am. and redesign. 1988, ch. 265, § 180, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 180 of S.L. 1988, ch. 265 to become this section.

49-656. Special speed limitations. — No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to the bridge or structure, when the structure is posted as provided in this title. [I.C., § 49-685, as added by 1977, ch. 152, § 3, p. 337; am. 1982, ch. 353, § 26, p. 874; am. and redesign. 1988, ch. 265, § 181, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 181 of S.L. 1988, ch. 265 to become this section.

49-657. Work zone speed limits — Penalty. — (1) No person shall operate a vehicle in excess of the posted maximum speed limit established for a highway work zone when the work zone is designated by appropriately placed signs indicating: the work zone; the reduced speed limit; and notice of an enhanced penalty for exceeding the reduced speed limit.

(2) Violation of the provisions of this section shall be an infraction punishable by a fixed penalty of fifty dollars (\$50.00). [I.C., § 49-657, as added by 1996, ch. 370, § 2, p. 1244; am. 2005, ch. 83, § 3, p. 296.]

49-658. School zone speed limit — Penalty. — (1) No person shall operate a vehicle in excess of the posted maximum speed limit established for a posted school zone. If a posted school zone speed limit sign includes the words "when children are present," the term shall mean one (1) or more

children. The definition applies to children present on the same side of the street as the school building or across the street from the school building in any direction within the marked school zone.

(2) Violation of the provisions of this section shall be an infraction punishable by a minimum penalty of not less than seventy-five dollars (\$75.00). [I.C., § 49-658, as added by 2008, ch. 372, § 1, p. 1017.]

49-659. Stopping, standing or parking outside business or residential districts. — (1) Outside a business or residential district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practicable to stop, park or so leave the vehicle off the roadway, but in every event in an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of the stopped vehicle shall be available from a distance of two hundred (200) feet in each direction upon the highway.

(2) This section and sections 49-660 and 49-661, Idaho Code, shall not apply to the driver of any vehicle which is disabled in such a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the vehicle in that position. [I.C., § 49-691, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 182, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 182 of S.L. formerly compiled as § 49-691 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

ANALYSIS

Exceptions.

Flares.

Instructions.

Stopping for school bus.

Exceptions.

The former section prohibiting parking a vehicle on a highway was inapplicable to the driver of a truck which developed engine trouble and which driver was unable to get started before it was struck by an automobile. *State v. Hintz*, 61 Idaho 411, 102 P.2d 639 (1940).

Although the former section made it unlawful to park any vehicle on the highway when it was practical not to do so, the section did not apply to the operator of a wrecker engaged in moving a disabled vehicle. *Hawkins v. Chandler*, 88 Idaho 20, 396 P.2d 123 (1964).

Flares.

Testimony of a highway patrolman that the law did not require use of flares by wrecker drivers unless the wrecker was disabled, ad-

mitted over objection that it was opinion of a lay witness on a question of law, was inadmissible; however, its admission was not reversible error, as on direct examination the witness was led to suggest to the jury that flares were required, and upon cross-examination the court had permitted the witness to testify that it was the custom of wrecker operators to use flares. *Hawkins v. Chandler*, 88 Idaho 20, 396 P.2d 123 (1964).

Instructions.

There was no merit in an assignment of error where the instruction given by the court correctly stated the law as to the stopping, parking or leaving of a vehicle standing upon the main traveled part of a highway in a prosecution for involuntary manslaughter allegedly caused by defendant's reckless driving

of automobile through dust cloud and striking an automobile parked on highway which caught fire causing the death of six persons. *State v. Gummerson*, 79 Idaho 30, 310 P.2d 362 (1957).

Stopping for School Bus.

Whether or not a plaintiff whose car defendant struck from behind was guilty of contrib-

utory negligence in stopping her car in a line of traffic stopped behind a school bus waiting to take on school children was a question for the jury. *Chard v. Bowen*, 91 Idaho 521, 427 P.2d 568 (1967).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 279 et seq.

C.J.S. — 60A C.J.S., Motor Vehicles, § 653 et seq.

A.L.R. — Liability for damage or injury by stranger starting motor vehicle left parked on street. 45 A.L.R.3d 787; 70 A.L.R.4th 276.

Stalled or ditched car, liability of owner or operator of, for injury to one assisting him in

extricating or starting. 3 A.L.R.3d 780.

Applicability of last clear chance doctrine to collision between moving and stalled, parked or standing motor vehicle. 34 A.L.R.3d 570.

Liability or recovery automobile negligence action as affected by absence or insufficiency of lights on parked or standing motor vehicle. 61 A.L.R.3d 13; 62 A.L.R.3d 560; 62 A.L.R.3d 771; 62 A.L.R.3d 844; 63 A.L.R.3d 824.

49-660. Stopping, standing or parking prohibited in specified places. — (1) Except when necessary to avoid conflict with other traffic, in compliance with law, the directions of a peace officer or traffic control device, no person shall:

(a) Stop, stand or park a vehicle:

1. On the traffic side of any vehicle stopped or parked at the edge or curb of a highway;
2. On a sidewalk;
3. Within an intersection;
4. On a crosswalk;
5. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;
6. Alongside or opposite any highway excavation or obstruction when stopping, standing, or parking would obstruct traffic;
7. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
8. On any railroad tracks;
9. On any controlled-access highway;
10. At any place where traffic-control devices prohibit stopping.

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

1. In front of a public or private driveway;
2. Within fifteen (15) feet of a fire hydrant;
3. Within twenty (20) feet of a crosswalk at an intersection;
4. Within thirty (30) feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a highway; provided, however, that local authorities may by ordinance or resolution permit the standing or parking of vehicles which are six (6) feet or less in height within such thirty (30) foot distance, or as may be specified by ordinance or resolution or as may be designated with appropriate signs;

5. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a highway opposite the entrance to any fire station within seventy-five (75) feet of the entrance (when properly sign-posted);

6. At any place where traffic-control devices prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

1. Within fifty (50) feet of the nearest rail of a railroad crossing;

2. At any place where traffic-control devices prohibit parking.

(2) No person shall move a vehicle not lawfully under his control into any prohibited area or away from a curb such a distance as to be unlawful. [I.C., § 49-693, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 183, p. 549; am. 1992, ch. 195, § 1, p. 604.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 183 of S.L. formerly compiled as § 49-693 and was 1988, ch. 265 to become this section.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 279 et seq. right of owner or operator to recover for negligence. 61 A.L.R.3d 13; 62 A.L.R.3d 560;

A.L.R. — Parking or stopping car without lights or with defective lights as affecting 62 A.L.R.3d 771; 62 A.L.R.3d 844; 63 A.L.R.3d 824.

49-661. Additional parking regulations. — (1) Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way highway shall be stopped or parked with the right-hand wheels parallel to and within eighteen (18) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder.

(2) Except when otherwise provided by local ordinances, every vehicle stopped or parked upon a one-way highway shall be stopped or parked parallel to the curb or edge of the highway, in the direction of authorized traffic movement, with its right-hand wheels within eighteen (18) inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder, or with its left-hand wheels within eighteen (18) inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.

(3) Local authorities may permit angle parking on any highway, except that angle parking shall not be permitted on any federal-aid or state highway unless the transportation department has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. [I.C., § 49-694, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 184, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-694 and was amended and redesignated by § 184 of S.L. 1988, ch. 265 to become this section. Former § 49-661 was amended and redesignated as § 49-644 by § 173 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: *Martinez v. Dyche*, 116 Idaho 933, 782 P.2d 56 (Ct. App. 1989).

DECISIONS UNDER PRIOR LAW

Right to Terminate Parking Privileges.

Act of a city in revoking a property owner's curb cut permit, which had enabled his customers to park against his building perpendicularly to the street, restoring the cut curb, and prohibiting parking on the street in that area with the result that the property owner

was required to purchase or lease additional property to provide parking space for his customers did not constitute a constructive taking, entitling the property owner to compensation. *Snyder v. State*, 92 Idaho 175, 438 P.2d 920 (1969).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, *Automobiles and Highway Traffic*, § 303 et seq.

49-662. Officers authorized to remove vehicles. — (1) Whenever any peace officer finds a vehicle in violation of any of the provisions of section 49-659, Idaho Code, the officer is authorized to move the vehicle, or require the driver or other person in charge of the vehicle to move it to a position off the roadway.

(2) Any peace officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway in a position or under circumstances as to obstruct the normal movement of traffic.

(3) Any peace officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(a) A report has been made that the vehicle has been stolen or taken without the consent of its owner; or

(b) The person or persons in charge of the vehicle are unable to provide for its custody or removal; or

(c) The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

(4) Whenever any peace officer finds a vehicle inoperable as a result of an accident and standing upon a highway, the officer is authorized to require the driver or other person in charge of the vehicle to have the vehicle removed from the scene of the accident to a position off the paved or main-traveled part of the highway. In the event that the owner of the vehicle is left incapacitated resulting from injuries suffered from the accident, the

officer is authorized to have the inoperative vehicle moved from the scene to the nearest garage or other place of safety.

(5) A peace officer is authorized to require the removal from the main-traveled part of the highway cargo or debris caused by a motor vehicle accident, provided that:

(a) The accident occurs with no apparent serious personal injury or death; and

(b) The removal can be accomplished safely and the removal will result in the improved safety or convenience of travel on the highway.

(6) A transportation department employee in the exercise of the management, control and maintenance of a highway of the state highway system may assist in the removal from the main-traveled part of the highway cargo or debris caused by a motor vehicle accident when directed by a peace officer.

(7) Neither the peace officer nor transportation department employee, nor anyone acting under the direction of the officer is liable for damage to the motor vehicle, cargo or debris caused by reasonable efforts of removal.

(8) Nothing herein shall be construed to interfere with the duty of any city, county or state police officer to investigate and detect crime and enforce the penal, traffic or highway laws of this state or any political subdivision. [I.C., § 49-692, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 185, p. 549; am. 2005, ch. 310, § 1, p. 962.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-692 and was amended and redesignated by § 185 of S.L. 1988, ch. 265 to become this section.

Former § 49-662 was amended and redesignated as § 49-645 by § 174 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Inventory search.

Parking lots.

Vehicle of intoxicated person.

Inventory Search.

Once a decision is made to impound a vehicle, an inventory search of the vehicle is permissible. *State v. Bray*, 122 Idaho 375, 834 P.2d 892 (Ct. App. 1992), cert. denied, 507 U.S. 916, 113 S. Ct. 1272, 122 L. Ed. 2d 667 (1993).

Parking Lots.

Vehicles which were located in parking lots could be impounded under this section. *Gordon v. Noble*, 109 Idaho 1048, 712 P.2d 749 (Ct. App. 1986).

Vehicle of Intoxicated Person.

Where police officers did not have control over vehicle of driver who was taken to hospital by police officers after being struck in

the nose by bouncer at local bar, and doctor who treated driver told officers that driver was too intoxicated to drive and officers advised driver not to drive and to have someone pick him up and take him home, since neither §§ 19-603(1), 50-209 nor 49-205(3) imposes a duty on a police officer to arrest an intoxicated person who possesses the keys to a vehicle the person might drive, and who has not committed some other crime for which the officer might arrest the person and take control of his vehicle, they were not liable in tort to person injured when driver attempted to drive himself in the vehicle after officers had returned his keys to him and departed. *Olguin v. City of Burley*, 119 Idaho 721, 810 P.2d 255 (1991).

49-663. Restricted use of neighborhood electric vehicles on highways. — (1) It is unlawful to operate a neighborhood electric vehicle on any highway with a posted speed limit of over twenty-five (25) miles per hour.

(2) It is unlawful for a person operating a neighborhood electric vehicle to cross any highway with a posted speed limit greater than twenty-five (25) miles per hour. [I.C., § 49-663, as added by 2005, ch. 183, § 5, p. 558.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-663 was amended and redesignated as § 49-603 by § 142 of S.L. 1988, ch. 265.

49-664. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-664 was amended and redesignated as § 49-808 by § 222 of S.L. 1988, ch. 265.

49-665. Riding on motorcycles. — A person operating a motorcycle shall ride only upon the permanent and regular seat attached to it, and the operator shall not carry any other person nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the vehicle. [1953, ch. 273, § 114, p. 478; am. and redesignig. 1988, ch. 265, § 186, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-761 and was amended and redesignated by § 186 of S.L. 1988, ch. 265 to become this section. Former § 49-665 was amended and redesignated as § 49-809 by § 223 of S.L. 1988, ch. 265.

49-666. Motorcycle, motorbike, UTV and ATV safety helmets — Requirements and standards. — No person under eighteen (18) years of age shall ride upon or be permitted to operate a motorcycle, motorbike, utility type vehicle or an all-terrain vehicle unless at all times when so operating or riding upon the vehicle he is wearing, as part of his motorcycle, motorbike, UTV or ATV equipment, a protective safety helmet of a type and quality equal to or better than the standards established for helmets by the director, except the provisions of this section shall not apply when such vehicles are operated or ridden on private property, or when used as an implement of husbandry. [I.C., § 49-761A, as added by 1967, ch. 224, § 1, p. 675; am. 1974, ch. 27, § 128, p. 811; am. 1978, ch. 323, § 1, p. 818; am. and redesignig. 1988, ch. 265, § 187, p. 549; am. 2005, ch. 204, § 1, p. 614; am. 2008, ch. 409, § 8, p. 1135.]

STATUTORY NOTES

Amendments. — The 2008 amendment, by ch. 409, in the section catchline and one time in the text, inserted “motorbike, UTV”; and also in the text, inserted “motorbike, utility type vehicle” one time.

Compiler's Notes. — This section was

formerly compiled as § 49-761A and was amended and redesignated by § 187 of S.L. 1988, ch. 265 to become this section.

Former § 49-666 was amended and redesignated as § 49-810 by § 224 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Constitutionality.

This section created no unconstitutional imbalance between the personal liberty of the individual and the interests of society in general and did not deny the defendant equal

protection of law or due process, nor was it an infringement of fundamental liberty, of his privacy or of his right to be let alone. *State v. Albertson*, 93 Idaho 640, 470 P.2d 300 (1970).

49-667, 49-668. [Reserved.]

49-669. Snowmobile operation limited. — (1) No person shall operate a snowmobile on any controlled-access highway.

(2) No person shall operate a snowmobile on any other highway except when crossing the highway at a right angle, when use of the highway by other vehicles is impossible because of snow, or when the operation is authorized by the authority having jurisdiction over the highway. [I.C., § 49-713, as added by 1977, ch. 152, § 4, p. 337; am. and redesign. 1988, ch. 265, § 188, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-713 and was

amended and redesignated by § 188 of S.L. 1988, ch. 265 to become this section.

49-670. [Reserved.]**49-671. [Reserved.]**

STATUTORY NOTES

Compiler's Notes. — Former § 49-671 was amended and redesignated as § 49-648 by § 175 of S.L. 1988, ch. 265.

49-672. Passenger safety for children. — (1) No noncommercial motor vehicle operator shall transport a child who is six (6) years of age or younger in a motor vehicle manufactured with seat belts after January 1, 1966, unless the child is properly secured in a child safety restraint that meets the requirements of federal motor vehicle safety standard no. 213.

(2) The provisions of this section shall not apply:

(a) If all of the motor vehicle's seat belts are in use, but in such an event any unrestrained child to which this section applies shall be placed in the rear seat of the motor vehicle, if it is so equipped; or

(b) When the child is removed from the car safety restraint and held by the attendant for the purpose of nursing the child or attending the child's other immediate physiological needs.

(3) The failure to use a child safety restraint shall not be considered under any circumstances as evidence of contributory negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence. [I.C., § 49-763, as added by 1984, ch. 193, § 1, p. 441; am. and redesisg. 1988, ch. 265, § 189, p. 549; am. 1995, ch. 55, § 1, p. 127; am. 2005, ch. 209, § 1, p. 625.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-763 and was amended and redesignated by § 189 of S.L. 1988, ch. 265 to become this section.

Former § 49-672 was amended and red-

esignated as subsection (21) of § 49-202 by § 5 of S.L. 1988, ch. 265.

The federal motor vehicle safety standard no. 213, referred to in subsection (1), is found at 49 CFR § 571.213.

49-673. Safety restraint use. — (1) Except as provided in section 49-672, Idaho Code, and subsection (2) of this section, each occupant of a motor vehicle which has a gross vehicle weight of not more than eight thousand (8,000) pounds, and which was manufactured with safety restraints in compliance with federal motor vehicle safety standard no. 208, shall have a safety restraint properly fastened about his body at all times when the vehicle is in motion.

(2) The provisions of this section shall not apply to:

(a) An occupant of a motor vehicle who possesses a written statement from a licensed physician that he is unable for medical reasons to wear a safety restraint;

(b) Occupants of motorcycles, implements of husbandry and emergency vehicles;

(c) Occupants of seats of a motor vehicle in which all safety restraints are then properly in use by other occupants of that vehicle; or

(d) Mail carriers.

(3)(a) A citation may be issued to:

(i) Any occupant of the motor vehicle aged eighteen (18) years or older who fails to wear a safety restraint as required in this section; and

(ii) The operator of the motor vehicle if the operator is aged eighteen (18) years or older and any occupant under eighteen (18) years of age fails to wear a safety restraint as required in this section. For purposes of this paragraph (a)(ii), it shall be deemed a single violation regardless of the number of occupants not properly restrained.

(b) A person issued a citation pursuant to this subsection shall be subject to a fine of ten dollars (\$10.00), with five dollars (\$5.00) of such fine to be apportioned to the catastrophic health care cost fund, as set forth in section 57-813, Idaho Code. A conviction under this subsection shall not result in violation point counts as prescribed in section 49-326, Idaho

Code, nor shall such a conviction be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(4) A citation may be issued to the operator of the motor vehicle if the operator is under eighteen (18) years of age and the operator or any other occupant who is under eighteen (18) years of age fails to wear a safety restraint as required in this section. For purposes of this subsection, it shall be deemed a single violation regardless of the number of occupants not properly restrained. A person issued a citation pursuant to this subsection shall be subject to a fine of ten dollars (\$10.00), five dollars (\$5.00) of such fine to be apportioned to the catastrophic health care cost fund as set forth in section 57-813, Idaho Code, plus court costs. A conviction under this subsection shall not result in violation point counts as prescribed in section 49-326, Idaho Code. In addition, a conviction under this subsection shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer.

(5) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when the operator of the motor vehicle has been detained for a suspected violation of another law.

(6) The department shall initiate and conduct an educational program, to the extent sufficient private donations or federal funds for this specific purpose are available to the department, to encourage compliance with the provisions of this section and to publicize the effectiveness of use of safety restraints and other restraint devices in reducing risk of harm to occupants of motor vehicles.

(7) The department shall evaluate the effectiveness of the provisions of this section and shall include a report of its findings in its annual evaluation report on the Idaho highway safety plan which it submits to the national highway traffic safety administration and federal highway administration pursuant to 23 U.S.C. section 402.

(8) The failure to use a safety restraint shall not be considered under any circumstances as evidence of contributory or comparative negligence, nor shall such failure be admissible as evidence in any civil action with regard to negligence. [I.C., § 49-764, as added by 1986, ch. 346, § 1, p. 854; am. 1988, ch. 245, § 1, p. 479; am. and redesi. 1988, ch. 265, § 190, p. 549; am. 1989, ch. 192, § 1, p. 474; am. 1989, ch. 310, § 22, p. 769; am. 2003, ch. 183, § 1, p. 497.]

STATUTORY NOTES

Amendments. — This section was amended by two 1989 acts — ch. 192, § 1, and ch. 310, § 22, both effective January 1, 1989 — which do not conflict and have been compiled together.

The 1989 amendment, by ch. 192, § 1, added subsections (2)(d) and (6).

The 1989 amendment, by ch. 310, § 22, added subsection (2)(d).

Compiler's Notes. — This section was formerly compiled as § 49-764 and was

amended and redesignated by § 190 of S.L. 1988, ch. 265 to become this section.

Former § 49-673 was amended and redesignated as § 49-649 by § 176 of S.L. 1988, ch. 265.

The federal motor vehicle safety standard no. 208, referred to in subsection (1), is found at 49 CFR § 571.208.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 2 of S.L. 1989, ch. 192 declared an emergency and provided that the act would become effective retroactively to January 1, 1989. Approved March 29, 1989.

Section 34 of S.L. 1989, ch. 310 declared an emergency and provided that the act would become effective retroactive to January 1, 1989. Approved April 5, 1989.

JUDICIAL DECISIONS

ANALYSIS

Admissibility.
Penalty.

Admissibility.

In a product liability case, even though a qualified motion in limine was granted regarding the admissibility of evidence of seatbelt use under § 49-673(8), an objection to the admission of such evidence through expert testimony was waived because no challenge was made when the evidence was introduced. *Kirk v. Ford Motor Co.*, 141 Idaho 697, 116 P.3d 27 (2005).

Where an instruction in a product liability case regarding the negligence of two decedents killed when a vehicle rolled over was consistent with the rules regarding the admissibility of seatbelt usage in § 49-673, the instruction was not erroneous; moreover, the

jury never considered the negligence of the decedents because a manufacturer was not negligent. *Kirk v. Ford Motor Co.*, 141 Idaho 697, 116 P.3d 27 (2005).

Penalty.

The seat belt statute specifically provides that the penalty for a seat belt infraction is to be imposed in addition to the conviction and sentence of another traffic law violation. *State v. Betterton*, 127 Idaho 562, 903 P.2d 151 (Ct. App. 1995).

Cited in: *State v. Roe*, 140 Idaho 176, 90 P.3d 926 (Ct. App. 2004); *Hudelson v. Delta Int'l Mach. Corp.*, 142 Idaho 244, 127 P.3d 147 (2005).

49-674. Harvest season. — Harvest season for the purpose of vehicles transporting agricultural products, including fresh fruits and vegetables, livestock, livestock feed, products of the forest or manure, shall be year-round. [I.C., § 49-674, as added by 2006, ch. 138, § 2, p. 393.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-674 was amended and redesignated as § 49-451 by S.L. 1988, ch. 265, § 8.

Effective Dates. — Section 3 of S.L. 2006, ch. 138 declared an emergency. Approved March 22, 2006.

49-675. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — A former § 49-675 was amended and redesignated as § 49-651 by § 178 of S.L. 1988, ch. 265.

49-676. Overtaking and passing school bus. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-676, as added by 1978, ch. 55, § 2, p. 105; am. 1981, ch. 181, § 1, p. 317 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

A former § 49-676 which comprised I.C., § 49-676, as added by 1977, ch. 152, § 3, p. 337 was repealed by S.L. 1978, ch. 55, § 1.

49-677 — 49-680. [Reserved.]**STATUTORY NOTES**

Compiler's Notes. — These sections were reserved in the former codification of title 49.

49-681 — 49-686. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-681 and 49-238 by §§ 179, 4, 8, 180, 181 and 30 S.L. 1988, ch. 265, respectively.
— 49-686 were amended and redesignated as §§ 49-654, 49-201, 49-207, 49-655, 49-656

49-687. Racing on public highways. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-687, as added by 1977, ch. 152, § 3, p. 337 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

49-688 — 49-690. [Reserved.]**STATUTORY NOTES**

Compiler's Notes. — These sections were reserved in the former codification of title 49.

49-691 — 49-698. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-691 and 49-213 by §§ 182, 185, 183, 184, 79 and 14 of S.L. 1988, ch. 265, respectively.
— 49-698 were amended and redesignated as §§ 49-659, 49-662, 49-660, 49-661, 49-410

CHAPTER 7**PEDESTRIANS AND BICYCLES****SECTION.**

- 49-701. Pedestrian obedience to traffic-control devices and traffic regulations.
- 49-702. Pedestrians' right-of-way in crosswalks.
- 49-703. Pedestrians to use right half of crosswalks.
- 49-704. Crossing at other than crosswalks.
- 49-705. Pedestrians yield to authorized emergency vehicles.
- 49-706. Blind and/or hearing impaired pedestrian has right-of-way.
- 49-707. Pedestrians' right-of-way on sidewalks.
- 49-708. Pedestrians on highways.

SECTION.

- 49-709. Pedestrians soliciting rides or business.
- 49-710. Bridge and railroad signals.
- 49-711, 49-712. [Reserved.]
- 49-713. Application.
- 49-714. Traffic laws apply to persons on bicycles and other human-powered vehicles — Due care.
- 49-715. Riding on bicycles.
- 49-716. Clinging to or following vehicles.
- 49-717. Position on highway.
- 49-718. Riding two abreast.
- 49-719. Carrying articles.
- 49-720. Stopping — Turn and stop signals.
- 49-721. Bicycles on sidewalks.

SECTION.

49-722. Bicycle racing.
49-723. Light and reflector required at night.
49-724. Additional lights authorized.
49-725 — 49-731. [Amended and Redesignated.]
49-731A, 49-732. [Repealed.]
49-733. [Amended and Redesignated.]
49-734 — 49-738. [Repealed.]

SECTION.

49-739 — 49-750. [Amended and Redesignated.]
49-751 — 49-760. [Repealed.]
49-761, 49-761A. [Amended and Redesignated.]
49-762. [Repealed.]
49-763, 49-764. [Amended and Redesignated.]
49-765 — 49-768. [Repealed.]

49-701. Pedestrian obedience to traffic-control devices and traffic regulations. — (1) A pedestrian shall obey the instructions of any traffic-control devices specifically applicable to him, unless otherwise directed by a peace officer.

(2) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in sections 49-802 and 49-803, Idaho Code.

(3) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this title. [I.C., § 49-721, as added by 1977, ch. 152, § 4, p. 337; am. and redesig. 1988, ch. 265, § 192, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-701, which comprised I.C., § 49-701, as added by 1982, ch. 353, § 28, p. 874, was repealed by S.L. 1988, ch. 265, § 191, effective January 1, 1989.

Compiler's Notes. — This section was

formerly compiled as § 49-721 and was amended and redesignated by § 192 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

Cited in: Vaughn v. Porter, 140 Idaho 470, 95 P.3d 88 (Ct. App. 2004).

RESEARCH REFERENCES

Am. Jur. — 8 Am. Jur. 2d, Automobiles and Highway Traffic, § 433 et seq.

C.J.S. — 60A C.J.S., Motor Vehicles, § 778 et seq.

A.L.R. — Liability for collision of automobile with pedestrian at intersection as affected by reliance upon or disregard of stop-and-go signal. 2 A.L.R.3d 155; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

Liability for automobile accident at intersection as affected by reliance upon or disregard of "yield" sign or signal. 2 A.L.R.3d 275;

3 A.L.R.3d 180; 3 A.L.R.3d 507.

Failure to comply with statute regulating travel by pedestrian along highway as affecting right to recovery for injuries or death resulting from collision with automobile. 45 A.L.R.3d 658.

Anti-hitchhiking laws: Their construction and effect in action for injury to hitchhiker. 46 A.L.R.3d 964.

Who is "pedestrian" with respect to rights and subject to duties provided by traffic regulation or judicially stated. 35 A.L.R.4th 1117.

49-702. Pedestrians' right-of-way in crosswalks. — (1) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the highway within a crosswalk.

(2) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(3) Subsection (1) of this section shall not apply under the conditions stated in section 49-704(2), Idaho Code.

(4) Whenever any vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the highway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(5) Except where otherwise indicated by a crosswalk or other traffic-control devices a pedestrian shall cross the highway at right angles to the curb or by the shortest route to the opposite curb. [I.C., § 49-722, as added by 1977, ch. 152, § 4, p. 337; am. 1984, ch. 41, § 1, p. 66; am. and redsig. 1988, ch. 265, § 193, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-722 and was amended and redesignated by § 193 of S.L. 1988, ch. 265 to become this section.

Former § 49-702 was amended and redesignated as § 49-604 by § 143 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Evidence.

The facts and circumstances shown by the evidence failed to reveal any conduct on the part of deceased which constituted an intervening proximate cause of the accident which resulted in her death where she was crossing an intersection at which there was no control

signal and defendant motorist was shown to be driving his car in a reckless manner in disregard of the life of decedent, it further being his duty to yield right-of-way to her and to keep a lookout in the exercise of due care for deceased's safety. *State v. Davidson*, 78 Idaho 553, 309 P.2d 211 (1957).

RESEARCH REFERENCES

Am. Jur. — 8 Am. Jur. 2d, Automobiles and Highway Traffic, § 453 et seq.

49-703. Pedestrians to use right half of crosswalks. — Pedestrians shall move, whenever practicable, upon the right half of crosswalks. [I.C., § 49-725, as added by 1977, ch. 152, § 4, p. 337; am. and redsig. 1988, ch. 265, § 194, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-725 and was amended and redesignated by § 194 of S.L. 1988, ch. 265 to become this section.

Former § 49-703 was amended and redesignated as § 49-605 by § 144 of S.L. 1988, ch. 265.

49-704. Crossing at other than crosswalks. — (1) Every pedestrian crossing a highway at any point other than within a marked crosswalk or

within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the highway.

(2) Any pedestrian crossing a highway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the highway.

(3) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(4) No pedestrian shall cross a highway intersection diagonally unless authorized by traffic-control devices. When authorized to cross diagonally, pedestrians shall cross only in accordance with the traffic-control devices pertaining to crossing movements. [I.C., § 49-723, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 195, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-723 and was amended and redesignated by § 195 of S.L. 1988, ch. 265 to become this section.

Former § 49-704 was amended and redesignated as § 49-612 by § 149 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Instructions.

Where there was some evidence that the plaintiff may have entered an intersection from a point outside the crosswalk, giving rise to a breach of duty codified by this section, it

was error for the court to fail to give the requested instruction based on this section. *Warren v. Furniss*, 124 Idaho 554, 861 P.2d 1219 (Ct. App. 1993).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Entering highway in emergency.
Negligence per se.

Entering Highway in Emergency.

In an action for injuries and property loss sustained when a lumber truck struck a run-away snowmobile which the plaintiff dealer had pursued onto the highway, the evidence was sufficient to warrant a jury finding that the plaintiff had reasonable cause to believe others would be imperiled if he did not pursue the snowmobile onto the highway in an effort to stop it, and that faced with this emergency, he acted reasonably in pursuing the snowmobile without first taking time to ascertain if it was safe for him to do so, as required by

former section under ordinary circumstances. *Reed v. AMF W. Tool, Inc.*, 431 F.2d 345 (9th Cir. 1970).

Negligence Per Se.

A pedestrian who walked across the street in the middle of the block where there was neither a pedestrian crossing nor a safety walk in violation of a city ordinance was guilty of negligence per se and could not recover damages since such negligence was a contributory cause of the accident. *Rosevear v. Rees*, 77 Idaho 270, 291 P.2d 856 (1955).

RESEARCH REFERENCES

Am. Jur. — 8 Am. Jur. 2d, Automobiles and Highway Traffic, § 457.

49-705. Pedestrians yield to authorized emergency vehicles. — (1) Upon the immediate approach of an authorized emergency vehicle

making use of an audible or visual signal meeting the requirements of section 49-623, Idaho Code, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency or police vehicle.

(2) This section shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian. [I.C., § 49-730, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 196, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-730 and was amended and redesignated by § 196 of S.L. 1988, ch. 265 to become this section.

Former § 49-705 was amended and redesignated as § 49-607 by § 146 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: State v. Monaghan, 116 Idaho 972, 783 P.2d 311 (Ct. App. 1989).

49-706. Blind and/or hearing impaired pedestrian has right-of-way. — The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog or a hearing impaired person accompanied by a hearing aid dog. [I.C., § 49-731, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 197, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-731 and was amended and redesignated by § 197 of S.L. 1988, ch. 265 to become this section.

Former § 49-706 was amended and redesignated as § 49-608 by § 147 of S.L. 1988, ch. 265.

49-707. Pedestrians' right-of-way on sidewalks. — The driver of a vehicle crossing a sidewalk shall yield the right-of-way to any pedestrian and all other traffic on the sidewalk. [I.C., § 49-729, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 198, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-707, which comprised I.C., § 49-707 as added by 1977, ch. 152, § 4, p. 337, was repealed by S.L. 1988, ch. 265, § 191, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-729 and was amended and redesignated by § 198 of S.L. 1988, ch. 265 to become this section.

49-708. Pedestrians on highways. — (1) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(3) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way highway, shall walk only on the left side of the highway.

(4) Except as otherwise provided in this title, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway. [I.C., § 49-726, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 199, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-726 and was amended and redesignated by § 199 of S.L. 1988, ch. 265 to become this section.

Former § 49-708 was amended and redesignated as § 49-606 by § 145 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Instructions.

Where, in personal injury action, the plaintiff testified that he regularly jogged in the roadway and he was struck by the car on the

roadway, it was not error for the court to refuse to give an instruction reciting this section. *Smith v. Praegitzer*, 113 Idaho 887, 749 P.2d 1012 (Ct. App. 1988).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Instructions.

Negligence.

Instructions.

The refusal to give certain instructions under the circumstances presented was not error where court's instructions adequately covered the requested instructions, such requested instructions involving speed of an automobile under certain circumstances, rights and duties of pedestrians, and the place of walking for pedestrians. *Lallatin v. Terry*, 81 Idaho 238, 340 P.2d 112 (1959).

Negligence.

Where a pedestrian, who was pushing a two-wheel cart in nighttime along right side of street bordered by a cinder footpath customarily used by pedestrians, was struck

from the rear by a taxicab, his negligence, if any, in using the path or in failing to step aside to avoid the collision was a question for the jury. *Franklin v. Wooters*, 55 Idaho 619, 45 P.2d 804 (1935).

The trial court properly denied motions for nonsuit, directed verdict, and judgment non obstante verdicto based on the theory that the plaintiff was guilty of contributory negligence in walking on and along the right-hand side of the highway where there was a conflict of evidence as to whether plaintiff, when struck, was walking along the highway or in a tavern parking lot adjacent thereto. *Loomis v. Hannah*, 89 Idaho 358, 404 P.2d 568 (1965).

RESEARCH REFERENCES

Am. Jur. — 8 Am. Jur. 2d, Automobiles and Highway Traffic, § 441 et seq.

A.L.R. — Failure to comply with statute regulating travel by pedestrian along highway as affecting right to recovery for injuries

or death resulting from collision with automobile. 45 A.L.R.3d 658.

Who is "pedestrian" entitled to rights and subject to duties provided by traffic regulations or judicially stated. 35 A.L.R.4th 1117.

49-709. Pedestrians soliciting rides or business. — (1) No person shall stand on a highway for the purpose of soliciting a ride.

(2) No person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle, provided however, that a person may stand on a highway other than a state or federal highway to solicit contributions if authorized to do so in writing by the local authority having jurisdiction over the highway, and provided further, that any such authorization shall not be valid for more than one (1) year from the date of issuance.

(3) No person shall stand on or in proximity to a highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a highway. [I.C., § 49-727, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 200, p. 549; am. 2001, ch. 392, § 1, p. 1371.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-727 and was amended and redesignated by § 200 of S.L. 1988, ch. 265 to become this section. Former § 49-709 was amended and redesignated as § 49-626 by § 157 of S.L. 1988, ch. 265.

49-710. Bridge and railroad signals. — (1) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given.

(2) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed. [I.C., § 49-733, as added by 1977, ch. 152, § 4, p. 337; am. and redesisg. 1988, ch. 265, § 201, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-733 and was amended and redesignated by § 201 of S.L. 1988, ch. 265 to become this section. Former § 49-710 was amended and redesignated as § 49-627 by § 158 of S.L. 1988, ch. 265.

49-711, 49-712. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-711 was amended and redesignated as § 49-613, by § 150 of S.L. 1988, ch. 265. Former § 49-712 was amended and redesignated as § 49-614 by § 151 of S.L. 1988, ch. 265.

49-713. Application. — (1) The parent of any child and the guardian of any ward shall not authorize or knowingly permit the child or ward to violate any of the provisions of the remainder of this chapter.

(2) Statutes applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to exceptions stated herein. [1953, ch. 273, § 93, p. 478;

am. 1981, ch. 223, § 10, p. 415; am. and redesisg. 1988, ch. 265, § 202, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-739 and was amended and redesignated by § 202 of S.L. 1988, ch. 265 to become this section. Former § 49-713 was amended and redesignated as § 49-669 by § 188 of S.L. 1988, ch. 265.

49-714. Traffic laws apply to persons on bicycles and other human-powered vehicles — Due care. — (1) Every person operating a vehicle propelled by human power or riding a bicycle shall have all of the rights and all of the duties applicable to the driver of any other vehicle under the provisions of chapters 6 and 8 of this title, except as otherwise provided in this chapter and except as to those provisions which by their nature can have no application.

(2) Every operator or rider of a bicycle or human-powered vehicle shall exercise due care. [I.C., § 49-740, as added by 1982, ch. 353, § 29, p. 874; am. and redesisg. 1988, ch. 265, § 203, p. 549; am. 2005, ch. 202, § 1, p. 612.]

STATUTORY NOTES

Prior Laws. — Former § 49-714, which comprised I.C., § 49-714, as added by 1977, ch. 152, § 4, p. 337 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

Compiler's Notes. — This section was formerly compiled as § 49-740 and was amended and redesignated by § 203 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Overtaking and Passing.

A boy riding a bicycle was entitled to use the right lane of the roadway by riding as near to the right side as practicable and, consequently, a motorist in passing him was

under duty to pass to the left at a safe distance and give audible warning when reasonably necessary. *Kelley v. Bruch*, 91 Idaho 50, 415 P.2d 693 (1966).

49-715. Riding on bicycles. — (1) A person propelling a bicycle shall not ride other than upon or astride an attached permanent and regular seat.

(2) No bicycle or human-propelled vehicle shall be used to carry more persons at one (1) time than the number for which it is designed and equipped.

(3) An adult rider may carry a child securely attached to his person in a backpack or sling or in a child carrier attached to the bicycle. [I.C., § 49-741, as added by 1982, ch. 353, § 29, p. 874; am. and redesisg. 1988, ch. 265, § 204, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-715, which comprised 1953, ch. 273, § 70, p. 478; am.

1974, ch. 12, § 67, p. 61, was repealed by S.L. 1977, ch. 152, § 1.

Compiler's Notes. — This section was amended and redesignated by § 204 of S.L. formerly compiled as § 49-741 and was 1988, ch. 265 to become this section.

49-716. Clinging to or following vehicles. — (1) No person riding upon any bicycle, coaster, roller skates, skateboard, sled or toy vehicle shall attach it or himself to any vehicle upon a highway.

(2) The provisions of this section shall not prohibit the attachment of a bicycle trailer or bicycle semitrailer to a bicycle if that trailer or semitrailer has been designed for that attachment.

(3) No person riding upon any bicycle or human-powered vehicle shall follow a vehicle so closely as to constitute an immediate hazard to the rider. [I.C., § 49-742, as added by 1982, ch. 353, § 29, p. 874; am. and redesignig. 1988, ch. 265, § 205, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-716, which comprised 1953, ch. 273, § 71, p. 478, was amended and redesignated by § 205 of S.L. repealed by S.L. 1977, ch. 152, § 1. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-717. Position on highway. — (1) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

(a) When overtaking and passing another bicycle or vehicle proceeding in the same direction.

(b) When preparing for a left turn at an intersection or into a private road or driveway.

(c) When reasonably necessary to avoid conditions including fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or substandard width lanes that make it unsafe to continue along the right-hand curb or edge.

(2) Any person operating a bicycle upon a one-way roadway with two (2) or more marked traffic lanes may ride as near the left-hand curb or edge of the roadway as practicable. [I.C., § 49-743, as added by 1982, ch. 353, § 29, p. 874; am. and redesignig. 1988, ch. 265, § 206, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-717, which comprised 1953, ch. 273, § 72, p. 478, was amended and redesignated by § 206 of S.L. repealed by S.L. 1977, ch. 152, § 1. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-718. Riding two abreast. — Persons riding bicycles upon a highway shall not ride more than two (2) abreast except on paths or parts of highways set aside for the exclusive use of bicycles. Persons riding two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane. [I.C., § 49-744, as

added by 1982, ch. 353, § 29, p. 874; am. and redesisg. 1988, ch. 265, § 207, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-718, which comprised 1953, ch. 273, § 73, p. 478, was repealed by S.L. 1977, ch. 152, § 1.

formerly compiled as § 49-744 and was amended and redesignated by § 207 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-719. Carrying articles. — No person operating a bicycle shall carry any package, bundle or article which prevents the operator from using at least one (1) hand in the control and operation of the bicycle. [I.C., § 49-745, as added by 1982, ch. 353, § 29, p. 874; am. and redesisg. 1988, ch. 265, § 208, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-719, which comprised 1953, ch. 273, § 74, p. 478, was repealed by S.L. 1977, ch. 152, § 1.

formerly compiled as § 49-745 and was amended and redesignated by § 208 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-720. Stopping — Turn and stop signals. — (1) A person operating a bicycle or human-powered vehicle approaching a stop sign shall slow down and, if required for safety, stop before entering the intersection. After slowing to a reasonable speed or stopping, the person shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the person is moving across or within the intersection or junction of highways, except that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a turn or proceed through the intersection without stopping.

(2) A person operating a bicycle or human-powered vehicle approaching a steady red traffic control light shall stop before entering the intersection and shall yield to all other traffic. Once the person has yielded, he may proceed through the steady red light with caution. Provided however, that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a right-hand turn. A left-hand turn onto a one-way highway may be made on a red light after stopping and yielding to other traffic.

(3) A person riding a bicycle shall comply with the provisions of section 49-643, Idaho Code.

(4) A signal of intention to turn right or left shall be given during not less than the last one hundred (100) feet traveled by the bicycle before turning, provided that a signal by hand and arm need not be given if the hand is needed in the control or operation of the bicycle. [I.C., § 49-746, as added by 1982, ch. 353, § 29, p. 874; am. and redesisg. 1988, ch. 265, § 209, p. 549; am. 2005, ch. 205, § 1, p. 615.]

STATUTORY NOTES

Prior Laws. — Former § 49-720, which comprised 1953, ch. 273, § 75, p. 478; am. 1974, ch. 12, § 68, p. 61, was repealed by S.L. 1977, ch. 152, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-746 and was

amended and redesignated by § 209 of S.L. 1988, ch. 265 to become this section.

Following the revision of Title 49 by S.L. 1985, Chapter 265, the reference in subsection (3) to section 49-643, Idaho Code, should be to section 49-644, Idaho Code.

49-721. Bicycles on sidewalks. — (1) A person operating a bicycle upon and along a sidewalk, or across a highway upon and along a crosswalk, shall yield the right-of-way to any pedestrian, and shall give an audible signal before overtaking and passing a pedestrian or another bicyclist.

(2) A person shall not operate a bicycle along and upon a sidewalk or across a highway upon and along a crosswalk, where the use of bicycles is prohibited by official traffic control devices.

(3) A person operating a vehicle by human power, or operating a motorized wheelchair or an electric personal assistive mobility device upon and along a sidewalk, or across a highway upon and along a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances. [I.C., § 49-747, as added by 1982, ch. 353, § 29, p. 874; am. and redesign. 1988, ch. 265, § 210, p. 549; am. 2002, ch. 160, § 5, p. 466.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-747 and was amended and redesignated by § 210 of S.L. 1988, ch. 265 to become this section.

Former § 49-721 was amended and redesignated as § 49-701 by § 192 of S.L. 1988, ch. 265.

49-722. Bicycle racing. — (1) Bicycle racing on the highways is prohibited except as authorized in this section.

(2) Bicycle racing on a highway shall not be unlawful when a racing event has been approved by the department or local law enforcement authorities on any highway under their respective jurisdictions. Approval of bicycle highway racing events shall be granted only under conditions which assure reasonable safety for all race participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(3) By agreement with the approving authority, participants in an approved bicycle highway racing event may be exempt from compliance with any traffic laws otherwise applicable, provided that traffic control is adequate to assure the safety of all highway users. [I.C., § 49-748, as added by 1982, ch. 353, § 29, p. 874; am. and redesign. 1988, ch. 265, § 211, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-748 and was amended and redesignated by § 211 of S.L. 1988, ch. 265 to become this section.

Former § 49-722 was amended and redesignated as § 49-702 by § 193 of S.L. 1988, ch. 265.

49-723. Light and reflector required at night. — Every bicycle in use at the times described in section 49-903, Idaho Code, shall be operated with a light emitting device visible from a distance of at least five hundred (500) feet to the front, attached to the bicycle or the rider, and with a reflector clearly visible from the rear of the bicycle. [I.C., § 49-749, as added by 1982, ch. 353, § 29, p. 874; am. and redesign. 1988, ch. 265, § 212, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-749 and was amended and redesignated by § 212 of S.L. 1988, ch. 265 to become this section.	Former § 49-723 was amended and redesignated as § 49-704 by § 195 of S.L. 1988, ch. 265.
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49-724. Additional lights authorized. — A bicycle or its rider may be equipped with lights or reflectors in addition to those required in section 49-723, Idaho Code. [I.C., § 49-750, as added by 1982, ch. 353, § 29, p. 874; am. and redesign. 1988, ch. 265, § 213, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-750 and was amended and redesignated by § 213 of S.L. 1988, ch. 265 to become this section.	Former § 49-724 was amended and redesignated as § 49-615 by § 152 of S.L. 1988, ch. 265.
	Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-725 — 49-731. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-725 — 49-731 were amended and redesignated as §§ 49-703, 49-708, 49-709, 49-616, 49-707,	49-705 and 49-706 by §§ 194, 199, 200, 153, 198, 196 and 197 of S.L. 1988, ch. 265, respectively.
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49-731A. Operation of vehicles on approach of police vehicle. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section which comprised I.C., § 49-731A, as added by 1972,	ch. 285, § 5, p. 717 was repealed by S.L. 1977, ch. 152, § 1.
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49-732. Pedestrians under influence of alcohol or drugs. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-732, as added by 1977,	ch. 152, § 4, p. 337 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.
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49-733. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-733 was amended and redesignated as § 49-710 by § 201 of S.L. 1988, ch. 265.

49-734 — 49-738. Pedestrians. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — These sections § 49-540.7, as added by 1955, ch. 84, § 11, p. 156 were repealed by S.L. 1977, ch. 152, § 1. which comprised 1953, ch. 273, §§ 89-92, p. 478; am. 1955, ch. 84, § 10, p. 156; I.C.,

49-739 — 49-750. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-739 — 49-750 were amended and redesignated as §§ 49-713 — 49-724 by §§ 202 — 213 of S.L. 1988, ch. 265, respectively.

49-751. Stop signs and yield signs. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-751, as added by 1975, ch. 110, § 8, p. 225, was repealed by S.L. 1977, ch. 152, § 1. A former § 49-751, which comprised S.L. 1953, ch. 273, § 105, p. 478; am. 1957, ch. 102, § 3, p. 178; am. 1974, ch. 12, § 70, p. 61, was repealed by S.L. 1975, ch. 110, § 7.

49-752, 49-752a. Emerging from alley, private driveway — School buses. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — These sections § 2, p. 380; am. 1965, ch. 278, § 1, p. 725; am. which comprised 1953, ch. 273, § 106, p. 478; 1967, ch. 292, § 1, p. 822 were repealed by I.C., § 49-752a, as added by 1963, ch. 129, S.L. 1977, ch. 152, § 1.

49-753. Overtaking, passing school bus. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised S.L. 1953, ch. 273, § 106.5, p. 478, was repealed by S.L. 1963, ch. 129, § 1.

49-754 — 49-760. School bus lighting equipment — Stopping, standing or parking — Unattended vehicles — Backing. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-754 12, § 1, p. 33; 1967, ch. 292, § 2, p. 822; 1974, — 49-760 which comprised 1953, ch. 273, ch. 12, § 71, p. 61; 1974, ch. 27, §§ 126, 127, §§ 107-113, p. 478; 1965, ch. 218, § 1, p. 501; p. 811; 1976, ch. 168, § 1, p. 618 were repealed by S.L. 1977, ch. 152, § 1.

49-761, 49-761A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-761 as §§ 49-665 and 49-666 by §§ 186 and 187 of and 49-761A were amended and redesignated S.L. 1988, ch. 265.

49-762. Motor vehicles on private land actively devoted to cultivated crops. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-762, as added by 1983, ch. 216, § 1, p. 598, was repealed by S.L. 1984, ch. 55, § 1. Former § 49-762, which comprised S.L. 1953, ch. 273, § 115, p. 478, was repealed by S.L. 1977, ch. 152, § 1.

49-763, 49-764. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-763 as §§ 49-672 and 49-673 by §§ 189 and 190 of and 49-764 were amended and redesignated S.L. 1988, ch. 265.

49-765 — 49-767. Interference with firefighters — Putting glass, etc., on highway. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, § 1, p. 570 were repealed by S.L. 1977, ch. which comprised 1953, ch. 273, §§ 118-120, p. 152, § 1. 478; I.C., § 49-768, as added by 1969, ch. 195,

49-768. School bus regulations. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised S.L. 1953, ch. 273, § 121, p. 478, was repealed by S.L. 1963, ch. 129, § 3.

CHAPTER 8

SIGNS, SIGNALS AND MARKINGS

SECTION.

49-801. Obedience to and required traffic-control devices.

49-801A. [Amended and Redesignated.]

49-801B. [Repealed.]

49-801C. [Amended and Redesignated.]

49-802. Traffic-control signal legend.

49-803. Pedestrian-control signals.

49-804. Flashing signals.

49-805. Display of unauthorized signs, signals or markings.

49-806. Lane use control signals.

49-807. Stop signs and yield signs.

49-808. Turning movements and required signals.

SECTION.

49-809. Signals by hand and arm or signal lamps.

49-809A. [Amended and Redesignated.]

49-810. Method of giving hand and arm signals.

49-811. Use of optical strobe light devices.

49-812 — 49-842. [Amended and Redesignated.]

49-843. [Repealed.]

49-844. [Amended and Redesignated.]

49-845. [Repealed.]

49-846, 49-847. [Amended and Redesignated.]

49-848. [Repealed.]

49-849. [Amended and Redesignated.]

49-801. Obedience to and required traffic-control devices. —

(1) The driver of any vehicle shall obey the instructions of any traffic-control device placed or held in accordance with the provisions of this title, unless otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle by this title.

(2) No provisions of this title for which traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation a device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that traffic-control devices are required, the section shall be effective even though no devices are erected and in place.

(3) Whenever traffic-control devices are placed or held in position approximately conforming to the requirements of this title, the devices shall be presumed to have been placed or held by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(4) Any traffic-control device placed or held pursuant to the provisions of this title and purporting to conform to the lawful requirement pertaining to those devices shall be presumed to comply with the requirements of this title, unless the contrary shall be established by competent evidence. [I.C., § 49-611, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 215, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-801, which comprised I.C., § 49-801, as added by 1982, ch. 353, § 30, p. 874, was repealed by S.L. 1988, ch. 265, § 214, effective January 1, 1989.

Compiler's Notes. — This section was

formerly compiled as § 49-611 and was amended and redesignated by § 215 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

ANALYSIS

Probable cause to stop.
Speed limit.

Probable Cause to Stop.

Even though a driving under the influence (DUI) defendant stopped and yielded at a traffic light that was allegedly broken, driving through the red light was a traffic offense and gave police probable cause to stop defendant. *State v. Schmidt*, 121 Idaho 381, 825 P.2d 104 (Ct. App. 1992).

grounds for granting a new trial; instruction made it negligence per se for plaintiff to be driving in excess of thirty five miles per hour when the accident happened even though the speed limit should have been forty five miles per hour based on brooming by contractor. *Dabestani ex rel. Dabestani v. Bellus*, 131 Idaho 542, 961 P.2d 633 (1998).

Speed Limit.

Instruction based on subsection (2) of § 49-654, prejudiced plaintiff's rights and was

Cited in: *Martin v. Hackworth*, 127 Idaho 68, 896 P.2d 976 (1995).

49-801A. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-801A was amended and redesignated as § 49-619 by § 154 of S.L. 1988, ch. 265.

49-801B. Fertilizer trailers — Defined as implements of husbandry — Operational restrictions. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., 49-801B, as added by 1981, ch. 269, § 2, p. 568, was repealed by S.L. 1988, ch. 265, § 214, effective January 1, 1989.

49-801C. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-801C was amended and redesignated as § 49-902 by § 227 of S.L. 1988, ch. 265.

49-802. Traffic-control signal legend. — Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one (1) at a time or in combination, only the colors green, red and yellow shall be used, except for pedestrian-control signals and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

(a) A driver facing a circular green signal shall proceed straight through or turn right or left unless a sign prohibits a right or left turn. Any driver, including one turning, shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection, as defined in section 49-110, Idaho Code, or an adjacent crosswalk.

(b) A driver facing a green arrow signal, shown alone or in combination with another indication, shall enter the intersection only to make the movement indicated by the green arrow, or other movement that is permitted by other indications shown at the same time. A driver facing a

left turn green arrow shall yield the right-of-way to other traffic and to pedestrians lawfully within the intersection or an adjacent crosswalk.

(c) A pedestrian facing a circular green signal, unless prohibited by a sign or otherwise directed by a pedestrian-control signal, as provided in section 49-803, Idaho Code, may proceed across the highway within any marked or unmarked crosswalk, but shall yield the right-of-way to vehicles lawfully within the intersection at the time that signal is first shown.

(d) A pedestrian facing a green arrow turn signal, unless otherwise directed by a pedestrian-control signal, as provided in section 49-803, Idaho Code, shall not enter the highway.

(2) Steady yellow indication:

(a) A driver facing a steady circular yellow or yellow arrow signal is being warned that the related green movement is ending, or that a red indication will be shown immediately after it.

(b) A pedestrian facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal, as provided in section 49-803, Idaho Code, is being warned that there is insufficient time to cross the highway.

(3) Steady red indication:

(a) A driver facing a steady circular red signal alone shall stop before entering the intersection, as defined in section 49-110, Idaho Code, and shall remain stopped until an indication to proceed is shown except as provided in paragraph (b) of this subsection. While stopped at the intersection, the driver shall remain stopped behind the marked limit line, as defined in section 49-113, Idaho Code, or if there is no marked limit line, shall not block the crosswalk.

(b) Except when a sign is in place prohibiting a turn, a driver after stopping, facing a steady circular red signal, may turn right, or turn left from a highway onto a one-way highway after stopping. Vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) A driver facing a steady red arrow indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked limit line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain stopped until an indication permitting movement is shown.

(d) Unless otherwise directed by a pedestrian-control signal, a pedestrian facing a steady circular red or red arrow signal shall not enter the traffic lanes of a highway.

(e) Notwithstanding any provision of law to the contrary, the driver of a motorcycle approaching an intersection that is controlled by a triggered traffic-control signal using a vehicle detection device that is inoperative due to the size of the motorcycle, shall come to a full and complete stop at the intersection. If the signal fails to operate after one cycle of the traffic signal, the driver may proceed after exercising due caution and care. It is not a defense to a violation of section 49-801, Idaho Code, that the driver

of a motorcycle proceeded under the belief that a traffic-control signal used a vehicle detection device or was inoperative due to the size of the motorcycle when such signal did not use a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(4) When an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or crosswalk or limit line indicating where the stop shall be made, but in the absence of a sign or marking, the stop shall be made at the signal. [I.C., § 49-612, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 216, p. 549; am. 1998, ch. 393, § 1, p. 1233; am. 2006, ch. 381, § 1, p. 1199.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 381, added subsection (3)(e).

Compiler's Notes. — This section was formerly compiled as § 49-612 and was amended and redesignated by § 216 of S.L.

1988, ch. 265 to become this section.

Former § 49-802 was amended and redesignated as § 49-903 by § 228 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Instructions.
Probable cause to stop.

Instructions.

Where trial judge instructed the jury that there was a statute in Idaho that required a motorist approaching a yellow light to yield the right of way, since there is no such statute, the instruction was clearly erroneous. Warren v. Furniss, 124 Idaho 554, 861 P.2d 1219 (Ct. App. 1993).

Probable Cause to Stop.

Even though a driving under the influence (DUI) defendant stopped and yielded at a traffic light that was allegedly broken, driving through the red light was a traffic offense and gave police probable cause to stop defendant. State v. Schmidt, 121 Idaho 381, 825 P.2d 104 (Ct. App. 1992).

49-803. Pedestrian-control signals. — Whenever a pedestrian-control signal showing the words “Walk” or “Wait” or “Don’t Walk” is in place, the signal shall indicate the following:

(1) Flashing or Steady “Walk”. A pedestrian facing the signal may proceed across the highway in the direction of the signal, but shall yield the right-of-way to vehicles lawfully within the intersection at the time the signal is first shown.

(2) Flashing or Steady “Don’t Walk” or “Wait”. No pedestrian shall start to cross the highway in the direction of the signal, but any pedestrian who has partially completed crossing shall proceed to a sidewalk or safety island while the “Don’t Walk” or “Wait” signal is showing. [I.C., § 49-613, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 217, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-613 and was amended and redesignated by § 217 of S.L. 1988, ch. 265 to become this section. Former § 49-803 was amended and redesignated as § 49-904 by 229 of S.L. 1988, ch. 265.

49-804. Flashing signals. — (1) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign, it shall require obedience by drivers as follows:

(a) Flashing red (stop signal). — When a red lens is illuminated with rapid intermittent flashes, a driver shall stop at a clearly marked limit line, but if none before entering the crosswalk on the near side of the intersection, or if none then at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering it, and the driver may proceed subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). — When a yellow lens is illuminated with rapid intermittent flashes, a driver may proceed through the intersection or past the signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the requirements set forth in section 49-648, Idaho Code. [I.C., § 49-614, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 218, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-614 and was amended and redesignated by § 218 of S.L. 1988, ch. 265 to become this section. Former § 49-804 was amended and redesignated as § 49-905 by § 230 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Instruction to Jury.

The court's instruction correctly advised the jury that the existence of a flashing yellow light designated a location requiring motor-

ists to exercise caution in proceeding and did not specifically indicate a railroad crossing. *Van v. Union P.R.R.*, 83 Idaho 539, 366 P.2d 837 (1961).

49-805. Display of unauthorized signs, signals or markings. —

(1) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be, or is an imitation of, or resembles a traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any traffic-control device or any railroad sign or signal.

(2) No person shall place or maintain, nor shall any public authority permit upon any highway any traffic-control device bearing on it any

commercial advertising, except for business signs included as a part of official roadside area information panels approved by the department.

(3) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for traffic control signs.

(4) Every prohibited sign, signal or marking is declared to be a public nuisance and the authority having jurisdiction over the highway is empowered to remove the public nuisance or cause it to be removed without notice. [I.C., § 49-615, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 219, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-615 and was amended and redesignated by § 219 of S.L. 1988, ch. 265 to become this section.

Former § 49-805 was amended and redesignated as § 49-906 by § 231 of S.L. 1988, ch. 265.

49-806. Lane use control signals. — When lane use control signals are placed over individual lanes, the signals shall indicate and apply to drivers of vehicles as follows:

(1) Green indication. A driver may travel in any lane over which a green signal is shown.

(2) Steady yellow indication. A driver is being warned that a lane control change is in process.

(3) Steady red indication. A driver shall not enter or travel in any lane over which a red signal is shown.

(4) Flashing yellow indication. A driver may use the lane only for the purpose of making a left turn to or from the highway. [I.C., § 49-617, as added by 1977, ch. 152, § 3, p. 337; am. and redesisg. 1988, ch. 265, § 220, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-617 and was amended and redesignated by § 220 of S.L. 1988, ch. 265 to become this section.

Former § 49-806 was amended and redesignated as § 49-907 by § 232 of S.L. 1988, ch. 265.

49-807. Stop signs and yield signs. — (1) Preferential right-of-way may be indicated by stop signs or yield signs as authorized in section 49-212, Idaho Code.

(2) Except when directed to proceed by a peace officer or traffic-control signal, every driver of a vehicle approaching a stop sign shall stop:

- (a) at a clearly marked stop line, or
 - (b) before entering the crosswalk on the near side of the intersection, or
 - (c) at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering it.
- After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to

constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of highways.

(3) The driver of a vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, or before entering the crosswalk on the near side of the intersection, or at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of highways. Provided, however, that if a driver is involved in a collision with a vehicle in the intersection or junction of highways, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his failure to yield right-of-way. [I.C., § 49-643, as added by 1977, ch. 152, § 3, p. 337; am. 1981, ch. 242, § 1, p. 485; am. 1988, ch. 147, § 1, p. 268; am. and redesisg. am. 1988, ch. 265, § 221, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-643 and was amended and redesignated by § 221 of S.L. 1988, ch. 265 to become this section.

Former § 49-807 was amended and redesignated as § 49-908 by § 233 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Instructions.
Traffic stop.

Instructions.

In suit for personal injuries as a result of auto accident, where district court thoroughly covered the duties of a driver at a stop sign and the law concerning right-of-way at intersections in instructions to the jury, which provided the applicable law at the time of the occurrence in question, it did not err in refusing to give instruction to show that a person driving on a through street has a statutory right not to have to anticipate that a driver at a stop sign will fail to yield. *LaRue v. Archer*, 130 Idaho 267, 939 P.2d 586 (Ct. App. 1997).

Traffic Stop.

DUI defendant, who crossed over a stop line to see around a fence which was obstructing his view of oncoming traffic, was not in violation of Idaho stop sign statute because the statute allowed motorists various options for compliance in coming to a stop at an intersection. However, he was in violation of a local municipal ordinance, which was not in conflict with the state code, and this gave a police officer probable cause to make a traffic stop. *State v. Young*, — Idaho —, 167 P.3d 783 (Ct. App. 2006).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Contributory negligence.
Duty to yield right-of-way.
Instructions.
Jury question.
Last clear chance doctrine.

Contributory Negligence.

Where defendant had stopped at a stop sign, then ran into plaintiff, who had been safely proceeding on a through street, plaintiff had a right to assume defendant would obey the law and remain stopped until it was safe to proceed, and since she had that right, there was no evidence plaintiff was negligent in any respect. *Potter v. Mulberry*, 100 Idaho 429, 599 P.2d 1000 (1979).

Duty to Yield Right-of-Way.

Under the provisions of the former law it was the duty of respondent to yield the right of way to any vehicle which was approaching on the highway so closely as to constitute an immediate hazard, and the driver of motorbike, as he was properly observing traffic regulations as he proceeded into the intersection, was entitled to assume that respondent or, in fact, anyone approaching and entering the intersection would comply with this section. *Foster v. Thomas*, 85 Idaho 565, 382 P.2d 792 (1963), overruled on other grounds, *Mann v. Safeway Stores*, 95 Idaho 732, 518 P.2d 1194 (1974).

Instructions.

In an action for injuries in head-on collision between an automobile and a truck at a Y intersection, a requested instruction that the truck driver's failure to stop at a stop sign on entering through highway was such negligence per se as would entitle motorist and

occupants of his automobile to a verdict was properly refused, since, under the former statute, a driver traveling at an unlawful speed forfeits any right of way, and one having right of way is not excused from exercise of ordinary care. *Stallinger v. Johnson*, 65 Idaho 101, 139 P.2d 460 (1943).

Jury Question.

Whether the failure to stop at intersection was proximate cause of traffic accident and violation of statutory duty where restricted visibility and defendant's high speed prevented plaintiff's decedent from apprehending the immediate hazard posed by the approaching car was a factual question to be resolved by the jury; however, jury should have been informed that more than one proximate cause could exist. *Sawson v. Olson*, 97 Idaho 274, 543 P.2d 499 (1975).

Last Clear Chance Doctrine.

The evidence presented in an action brought by plaintiff motorist and his passenger for property damage to the car and personal injuries arising out of an automobile collision occurring at a highway intersection presented a jury question as to whether the plaintiff could have avoided the accident under the last clear chance doctrine and whether he had time to realize peril of the defendant motorist who was crossing the highway at a country road intersection. *Durrington v. Crooker*, 78 Idaho 539, 307 P.2d 227 (1957).

49-808. Turning movements and required signals. — (1) No person shall turn a vehicle onto a highway or move a vehicle right or left upon a highway or merge onto or exit from a highway unless and until the movement can be made with reasonable safety nor without giving an appropriate signal.

(2) A signal of intention to turn or move right or left when required shall be given continuously to warn other traffic. On controlled-access highways and before turning from a parked position, the signal shall be given continuously for not less than five (5) seconds and, in all other instances, for not less than the last one hundred (100) feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to give such a signal.

(4) The signals required on vehicles by section 49-809, Idaho Code, shall not be flashed on one (1) side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one (1) side only of a parked vehicle except as may be necessary for compliance with this section. [I.C., § 49-664, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 222, p. 549; am. 2005, ch. 98, § 1, p. 318.]

STATUTORY NOTES

Prior Laws. — Former § 49-808, which comprised 1953, ch. 273, § 128, p. 478, was repealed by S.L. 1988, ch. 265, § 214, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-664 and was amended and redesignated by § 222 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Failure to Signal.

There are no exceptions to the signal requirement in this section; whenever a movement is made to the left or right on a highway, regardless of whether the movement is made necessary to comply with highway signage, an

appropriate signal is required. *State v. Dewbre*, 133 Idaho 663, 991 P.2d 388 (Ct. App. 1999).

Cited in: *Ahles v. Tabor*, 136 Idaho 393, 34 P.3d 1076 (2001).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Failure to signal.
Lane change.
Reasonable safety.

Failure to Signal.

The failure of a driver of a truck, followed by another vehicle, to give appropriate signal of his intention to change course or suddenly decrease speed constituted "negligence" and "misdemeanor." *Madron v. McCoy*, 63 Idaho 703, 126 P.2d 566 (1942).

The driver of a pickup truck which was being followed by a truck and trailer violated statutory provisions when he gave no signal of his intention to turn, when the truck behind him would be affected by such movement, and such act and omission on his part constituted negligence. *Woodman v. Knight*, 85 Idaho 453, 380 P.2d 222 (1963).

Lane Change.

The legislature did not intend that a driver of a vehicle give a warning continuously for the last 100 feet prior to a lane change but

only the last 100 feet prior to an actual turn. *Futrell v. Martin*, 100 Idaho 473, 600 P.2d 777 (1979).

Reasonable Safety.

Where defendant, who was attempting to make a left turn when his truck was struck from the rear by car attempting to pass, concluded, when he first saw the car to the rear, that he had adequate room to make the turn, but was mistaken either as to the distance of such car or the speed at which it was traveling, his failure to make further and more adequate observation was negligence in view of the duty imposed upon him by the former law which only allowed turns when they could be made with reasonable safety. *Hale v. Gunter*, 82 Idaho 534, 356 P.2d 223 (1960).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 241 et seq.

C.J.S. — 60A C.J.S., Motor Vehicles, § 606 et seq.

A.L.R. — Liability for collision of automobile with pedestrian at intersection as affected by reliance upon or disregard of stop-

and-go signal. 2 A.L.R.3d 155; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

Liability for automobile accident at intersection as affected by reliance upon or disregard of "yield" sign or signal. 2 A.L.R.3d 275; 3 A.L.R.3d 180; 3 A.L.R.3d 507.

49-809. Signals by hand and arm or signal lamps. — (1) Any stop or turn signal when required shall be given either by means of hand and arm, or by signal lamps, except as otherwise provided in subsection (2) of this section.

(2) Any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lamps when the distance from the

center of the top of the steering post to the left outside limit of the body, cab or load of the vehicle exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurements shall apply not only to any single vehicle, but also to any combination of vehicles. [I.C., § 49-665, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 223, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-665 and was amended and redesignated by § 223 of S.L. 1988, ch. 265 to become this section.

Former § 49-809 was amended and redesignated as the introductory paragraph and subdivisions (1) — (9) of § 49-909 by § 234 of S.L. 1988, ch. 265.

49-809A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-809A was amended and redesignated as § 49-915 by § 241 of S.L. 1988, ch. 265.

- 49-810. Method of giving hand and arm signals.** — All signals required to be given by hand and arm shall be given from the left side of the vehicle in the following manner, and the signals shall indicate the following:
- (1) Left turn. — Hand and arm extended horizontally.
 - (2) Right turn. — Hand and arm extended upward. A person operating a bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.
 - (3) Stop or decrease speed. — Hand and arm extended downward. [I.C., § 49-666, as added by 1977, ch. 152, § 3, p. 337; am. and redesign. 1988, ch. 265, § 224, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-666 and was amended and redesignated by § 224 of S.L. 1988, ch. 265 to become this section.

Former § 49-810 was amended and redesignated as § 49-910 by § 235 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

- 49-811. Use of optical strobe light devices.** — (1) As used in this section “optical strobe light device” shall mean a strobe light device which emits an optical signal at a specific frequency to a traffic control signal enabling police or emergency vehicles to obtain the right-of-way at intersections or enabling transportation department, city, county or highway district maintenance vehicles to perform maintenance tests on traffic control signals.
- (2) A person shall be guilty of a misdemeanor if the person uses an optical strobe light device on the highways of this state unless the person is operating or riding in an authorized emergency vehicle, as defined in section

49-123(2)(b), Idaho Code, or is operating or riding in a transportation department, city, county or highway district maintenance vehicle and the person is on official emergency duty while operating or riding in the vehicle.

(3) A person found guilty of violating subsection (2) of this section shall be sentenced by imprisonment of not greater than six (6) months, by a fine not in excess of one thousand dollars (\$1,000), or by both such fine and imprisonment. [I.C., § 49-811, as added by 2004, ch. 170, § 1, p. 549.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-811, was amended and redesignated as part of which comprised S.L. 1953, ch. 273, ch. 131, § 49-909 by S.L. 1988, ch. 265 § 234.

49-812 — 49-842. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-812 943 — 49-945, 49-948, 49-949, 49-952 and — 49-842 were amended and redesignated as 49-953 by §§ 234, 237 — 240, 242 — 256, 226, §§ 49-909 (10) — (12), 49-911 — 49-914, 49-236, 226, 257, 258, 268, 259, 260, 261 — 263, 916 — 49-930, 49-901, 41-910A, 49-901(6), 264, 265, 266 and 267 of S.L. 1988, ch. 265, 49-933, 49-934, 49-956, 49-937, 49-940, 49- respectively.

49-843. Vehicles transporting explosives. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which 1974, ch. 27, § 135, p. 811 was repealed by comprised 1953, ch. 273, § 158, p. 478; am. S.L. 1982, ch. 353, § 2, effective July 1, 1983.

49-844. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-844 was amended and redesignated as § 49-959 by § 269 of S.L. 1988, ch. 265.

49-845. Vehicles without required equipment or in unsafe condition. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which repealed by S.L. 1988, ch. 265, § 214, effective January 1, 1989. comprised 1953, ch. 273, § 159, p. 478, was

49-846, 49-847. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-846 as §§ 49-235 and 49-965 by §§ 27 and 271 of and 49-847 were amended and redesignated S.L. 1988, ch. 265.

49-848. Violation a misdemeanor. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1961, ch. 83, § 2, p. 112 was repealed by S.L. 1982, ch. 353, § 2, effective July 1, 1983.

49-849. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-849 was amended and redesignated as § 49-962 by § 270 of S.L. 1988, ch. 265.

CHAPTER 9

VEHICLE EQUIPMENT

SECTION.

- 49-901. Duties of department and director of Idaho state police.
- 49-901A. [Amended and Redesignated.]
- 49-901B. [Repealed.]
- 49-902. Scope and effect.
- 49-903. When lighted lamps are required.
- 49-904. Visibility distance and mounted height of lamps.
- 49-905. Head lamps on motor vehicles.
- 49-906. Tail lamps.
- 49-907. Motor vehicles to be equipped with reflectors.
- 49-908. Stop lamps and turn signals required on motor vehicles.
- 49-909. Additional equipment required on certain vehicles.
- 49-910. Color of clearance lamps, side marker lamps, and reflectors.
- 49-910A. Color of lamps and globes limited to certain vehicle classes.
- 49-911. Visibility of reflectors, clearance lamps, and marker lamps.
- 49-912. Obstructed lights not required.
- 49-913. Lamp or flag on projecting load.
- 49-914. Lamps on parked vehicles.
- 49-915. School buses — Visual signal.
- 49-916. Lamps on farm tractors, farm equipment and implements of husbandry.
- 49-917. Lamps on other vehicles and equipment.
- 49-918. Spot lamps and auxiliary lamps.
- 49-919. Signal lamps and signal devices.
- 49-920. Additional lighting equipment.
- 49-921. Rear mounted acceleration and deceleration lighting system.
- 49-922. Multiple-beam road-lighting equipment.
- 49-923. Use of multiple-beam road-lighting equipment.

SECTION.

- 49-924. Single-beam road-lighting equipment.
- 49-925. Lighting equipment on motor-driven cycles.
- 49-926. Alternate road-lighting equipment.
- 49-927. Number of driving lamps required or permitted.
- 49-928. Special restrictions on lamps.
- 49-929. Lights on snow removal equipment.
- 49-930. Selling or using lamps or equipment.
- 49-931, 49-932. [Reserved.]
- 49-933. Brakes.
- 49-934. Brakes on motor-driven cycles.
- 49-935, 49-936. [Reserved.]
- 49-937. Mufflers, prevention of noise.
- 49-938, 49-939. [Reserved.]
- 49-940. Mirrors.
- 49-941, 49-942. [Reserved.]
- 49-943. Windshields to be unobstructed and equipped with wipers.
- 49-944. Standards for windshields and windows of motor vehicles — Prohibited acts — Penalty.
- 49-945. Safety glazing material in motor vehicles.
- 49-946, 49-947. [Reserved.]
- 49-948. Restrictions as to tire equipment.
- 49-949. Requirement as to fender or covers over all wheels on motor vehicles.
- 49-950, 49-951. [Reserved.]
- 49-952. Certain vehicles to carry flares or other warning devices.
- 49-953. Display of warning devices when vehicle disabled.
- 49-954, 49-955. [Reserved.]
- 49-956. Horns and warning devices.
- 49-957, 49-958. [Reserved.]
- 49-959. Air-conditioning equipment.
- 49-960, 49-961. [Reserved.]

SECTION.

49-962. Footrests on motorcycles and motor driven cycles.

49-963, 49-964. [Reserved.]

49-965. Modification of vehicle to reduce road clearance beyond certain limits unlawful.

SECTION.

49-966. Motor vehicle bumper height requirements.

49-967. Air bags and air bag systems — Disclosure if inoperable.

49-901. Duties of department and director of Idaho state police.

— (1) The director shall adopt standards and specifications applicable to head lamps, clearance lamps, identification and other lamps on snow removal equipment when operated on the highways in lieu of the lamps otherwise required on vehicles by this title. Standards and specifications may permit the use of flashing lights for purposes of identification on snow removal equipment when in service upon the highways.

(2) The director may adopt standards and specifications applicable to lighting equipment on and special warning devices to be carried by school buses supplemental to but consistent with the provisions of section 49-914, Idaho Code. Standards and specifications shall correlate with and so far as possible conform to specifications then current as approved by the society of automotive engineers.

(3) The director is authorized to approve or disapprove lighting devices and to issue and enforce rules establishing standards and specifications for the approval of lighting devices, their installation, adjustment, and aiming, and adjustment when in use on motor vehicles. Regulations shall correlate with and, so far as practicable, conform to the then current standards and specifications of the society of automotive engineers applicable to that equipment.

(4) The director shall approve or disapprove any lighting device, of a type on which approval is specifically required in this title, within a reasonable time after the device has been submitted. He is authorized to set up the procedure which shall be followed when any device is submitted for approval, and upon approving any lamp or device shall issue to the applicant a certificate of approval together with any instructions determined by him. The department shall publish lists of all lamps and devices by name and type which have been approved. Any person desiring approval of a device shall notify the director in writing of the person's intention and shall submit the device for testing and approval as directed by the director. The director shall not approve a lighting device on any motorcycle or motor-driven cycle that does not have a self-recovery lighting system such as a generator or alternator to replace the power supply.

(5) The director shall approve and disapprove warning lighting devices on emergency and police vehicles and establish standards and specifications for emergency warning lighting devices.

(6) When the department has reason to believe that an approved device as being sold commercially does not comply with the requirements of this title, the director may, after giving thirty (30) days' previous notice to the person holding the certificate of approval for the device in this state, conduct a hearing upon the question of compliance of the approved device. After the hearing he shall determine whether the approved device meets the require-

ments of this title. If the device does not meet the requirements of this title, he shall give notice to the person holding the certificate of approval for the device in this state.

If at the expiration of ninety (90) days after the notice, the person holding the certificate of approval for the device has failed to satisfy the department that the approved device as thereafter to be sold meets the requirements of this title, the director shall suspend or revoke the approval issued until or unless the device is resubmitted to and retested by an approved testing agency and found to meet the requirements of this title, and may require that all the devices sold since the notification following the hearing be replaced with devices that do comply with the requirements of this title. The department may at the time of the retest, purchase in the open market and submit to the testing agency one or more sets of the approved devices, and if the device upon retest fails to meet the requirements of this title, the director may refuse to renew the certificate of approval of the device.

(7) The director shall adopt and enforce safety requirements, rules and specifications applicable to air conditioning equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to air conditioning equipment approved by the society of automotive engineers.

(8) The director in cooperation with the state board of education shall adopt and enforce rules not inconsistent with this title to govern the design and operation of all school buses when owned and operated by any school district or privately owned and operated under contract with any school district in the state, and these rules shall by reference be made a part of any contract with a school district. Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to these rules. [1953, ch. 273, §§ 148, 149, p. 478; am. 1955, ch. 84, § 26, p. 156; am. 1965, ch. 50, § 1, p. 81; am. 1969, ch. 58, § 1, p. 201; am. 1972, ch. 285, § 6, p. 717; am. 1974, ch. 27, §§ 131, 132, p. 811; am. and redesi. 1988, ch. 265, § 226, p. 549; am. 2000, ch. 469, § 116, p. 1450.]

STATUTORY NOTES

Cross References. — Air conditioning equipment, § 49-959.

Compiler's Notes. — This section was formerly compiled as §§ 49-830 and 49-831, which were amended and redesignated by § 226 of S.L. 1988, ch. 265 to become this section.

Former § 49-901 was amended and redesignated as § 49-1001 by § 272 of S.L. 1988, ch. 265.

Following the revision of Title 49, by S.L. 1985, Chapter 265, the reference in subsection (2) to section 49-914, Idaho Code, should be to section 49-915, Idaho Code.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

Instructions.

In an action for personal injuries sustained by the plaintiff in automobile accident, the instructions stating correct law insofar as the lights required to be placed upon defendant's

vehicle and then advising the jury that nevertheless it could find the defendants negligent in failing to provide additional warnings above and beyond those required by the statute using a reasonable prudent man test,

covered the contentions of plaintiffs and the applicable law when read together. *Zoret v. Breeden*, 94 Idaho 552, 494 P.2d 150 (1972).

49-901A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated as § 49-1001 by § 272 of S.L. 1988, ch. 265. § 2 of S.L. 1986, ch. 172 and was later

49-901B. Compliance with the Federal Aid Highway Act of 1956. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1975, ch. 184, § 3, p. 502, was repealed by S.L. 1986, ch. 172, § 1.

49-902. Scope and effect. — (1) It shall be unlawful for any person to drive, or move, or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in an unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with the lamps and other requirements in proper condition and adjustment, as required by the provisions of this chapter, or which is equipped in any manner in violation of the provisions of this chapter.

(2) Nothing contained in the provisions of this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(3) The provisions of this chapter, with respect to equipment on vehicles, shall not apply to implements of husbandry, road machinery, road rollers, farm tractors or slow moving vehicles except as otherwise specifically made applicable. [I.C., § 49-801C, as added by 1982, ch. 353, § 31, p. 874; am. and redesign. 1988, ch. 265, § 227, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-801C and was amended and redesignated by § 227 of S.L. 1988, ch. 265 to become this section. Former § 49-902 was amended and redesignated as § 49-1002 by § 273 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Cracked windshield.
Inoperable headlights.
Taillights emitting white light.

Cracked Windshield.

Photographic evidence of a driver's cracked windshield, as well as an officer's testimony, provided substantial evidence supporting the trial court's finding that the cracked windshield could have impaired the driver's ability to see and, therefore, implicated subsection (1) of this section. The traffic stop was, therefore, supported by reasonable suspicion under the Fourth Amendment, and the trial court did not err in denying defendant's motion to suppress. *State v. Kinser*, 141 Idaho 557, 112 P.3d 845 (Ct. App. 2005).

Inoperable Headlights.

An officer may stop a vehicle to investigate possible criminal behavior if there is articulable and reasonable suspicion that the

vehicle is being driven contrary to traffic laws, and an officer who saw that one headlight on the vehicle defendant was driving was on while the other was not had reasonable cause to believe defendant was operating a vehicle in violation of subsection (1), which is an infraction pursuant to § 49-905. *State v. Evans*, 134 Idaho 560, 6 P.3d 416 (Ct. App. 2000).

Taillights Emitting White Light.

Officer had reasonable suspicion to stop defendant's vehicle when he saw defendant's taillights emitting white light, and red lights were required by law. Defendant was not entitled to suppress the evidence obtained subsequent to the stop. *State v. Patterson*, 140 Idaho 612, 97 P.3d 479 (Ct. App. 2004).

49-903. When lighted lamps are required. — Every vehicle upon a highway at any time from sunset to sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet ahead shall display lighted lamps and illuminating devices as here respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles as stated herein. [1953, ch. 273, § 123, p. 478; am. and redesign. 1988, ch. 265, § 228, p. 549; am. 1990, ch. 166, § 1, p. 363.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-802 and was amended and redesignated by § 228 of S.L. 1988, ch. 265 to become this section.

Former § 49-903 was amended and redesignated as § 49-1003 by § 274 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS**ANALYSIS**

In general.
Instructions.
Operable headlights.

In General.

Statutes which require that safety devices be carried in every vehicle from sunset to sunrise, and which impose certain safety requirements on operators with a disabled vehicle, clearly applied only to one who was either an operator or driver of the vehicle at issue, and as none of these safety statutes mention dealers, there was no statutory duty imposed upon a licensed commercial dealer of used motor vehicles to inspect for, equip vehicles with or warn buyers of, the absence of statutorily required safety devices. *Mugavero v. A-1 Auto Sales, Inc.*, 130 Idaho 554, 944 P.2d 151 (Ct. App. 1997).

Instructions.

Instruction by district court that failure of a person to have his vehicle equipped with statutory lights was only evidence of negligence was incorrect, as such failure is prima facie evidence of negligence. However, since it was admitted that there was a failure to have the required lights, the error was not prejudicial. *Turner v. Purdum*, 77 Idaho 130, 289 P.2d 608 (1955), overruled on other grounds, *Schaub v. Linehan*, 92 Idaho 332, 442 P.2d 742 (1968).

Operable Headlights.

Operable headlights may be unexpectedly required long before sunset due to sudden

changes of weather, agricultural dust, or smoke from burning fields; therefore, defendant's reading of this section as permitting the operation of vehicles with inoperable headlights before sunset was inconsistent with Idaho's policy of providing a safe high-

way system. *State v. Evans*, 134 Idaho 560, 6 P.3d 416 (Ct. App. 2000).

Cited in: *State v. Irwin*, 143 Idaho 102, 137 P.3d 1024 (Ct. App. 2006).

RESEARCH REFERENCES

A.L.R. — Liability or recovery in automobile negligence action arising out of collision or upset as affected by operation of vehicle without front lights, or with improper front lights. 61 A.L.R.3d 13; 62 A.L.R.3d 560; 63 A.L.R.3d 824.

Liability or recovery in automobile negligence action arising out of collision or upset as affected by operation of vehicle without or

with improper taillights or rear reflectors. 61 A.L.R.3d 13; 62 A.L.R.3d 771; 63 A.L.R.3d 824.

Liability or recovery in automobile negligence action arising out of collision or upset as affected by operation of vehicle without, or with improper, clearance, load, or similar auxiliary lights. 61 A.L.R.3d 813; 62 A.L.R.3d 844; 63 A.L.R.3d 824.

49-904. Visibility distance and mounted height of lamps. —

(1) Whenever a requirement is stated as to the distance from which certain lamps and devices shall render objects visible, or within which lamps or devices shall be visible, those provisions shall apply during the times stated in section 49-903, Idaho Code, in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(2) Whenever a requirement is stated as to the mounted height of lamps or devices, it shall mean from the center of the lamp or device to the level ground upon which the vehicle stands when the vehicle is without a load. [1953, ch. 273, § 124, p. 478; am. and redesign. 1988, ch. 265, § 229, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-904, which comprised 1929, ch. 156, § 4, p. 281; I.C.A., § 48-604; am. 1965, ch. 10, § 1, p. 19; am. 1974, ch. 12, § 74, p. 61, was repealed by S.L. 1988, ch. 265, § 225, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-803 and was amended and redesignated by § 229 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Instructions.

An instruction covering statutory requirement that automobile headlights be adjusted, to furnish visibility 200 feet ahead was not

improper under the pleadings and evidence, as introducing for jury's consideration a question not in dispute. *Geist v. Moore*, 58 Idaho 149, 70 P.2d 403 (1937).

49-905. Head lamps on motor vehicles. — (1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle. The head lamps shall comply with the requirements and limitations set forth in this chapter.

(2) Every motorcycle and every motor-driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this chapter.

(3) Every head lamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than fifty-four (54) inches nor less than twenty-four (24) inches to be measured as set forth in section 49-904(2), Idaho Code.

(4) No person shall operate any motor vehicle on the highways with head lamps which are composed of, covered by, or treated with any material, substance, system, or component which, when such head lamps are not in operation, is highly reflective or otherwise opaque and nontransparent.

(5) No person shall have for sale, sell, or offer for sale any motor vehicles with head lamps that are in violation of the provisions of this section.

(6) Nothing in this section shall be construed to make illegal the operation or sale of any motor vehicle, the head lamps of which are composed of, covered by, or treated with any material, substance, system, or component with which the motor vehicle was sold when new or could have been equipped for sale when new as standard or optional equipment under any United States government statute or regulation governing the sale at the time of manufacture.

(7) Any person convicted of a violation of the provisions of this section shall be guilty of an infraction. [1953, ch. 273, § 125, p. 478; am. 1957, ch. 9, § 1, p. 11; am. and redesign. 1988, ch. 265, § 230, p. 549; am. 1992, ch. 88, § 1, p. 274.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-804 and was amended and redesignated by § 230 of S.L. 1988, ch. 265 to become this section.

Former § 49-905 was amended and redesignated as § 49-1004 by § 275 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Inoperable Headlights.

An officer may stop a vehicle to investigate possible criminal behavior if there is articulable and reasonable suspicion that the vehicle is being driven contrary to traffic laws, and an officer who saw that one headlight on

the vehicle defendant was driving was on while the other was not had reasonable cause to believe defendant was operating a vehicle in violation of § 49-902(1), which is an infraction pursuant to this section. *State v. Evans*, 134 Idaho 560, 6 P.3d 416 (Ct. App. 2000).

DECISIONS UNDER PRIOR LAW

Instructions.

An instruction covering statutory requirement that automobile headlights be adjusted to furnish visibility 200 feet ahead was not

improper under the pleadings and evidence, as introducing for jury's consideration a question not in dispute. *Geist v. Moore*, 58 Idaho 149, 70 P.2d 403 (1937).

49-906. Tail lamps. — (1) Every motor vehicle, trailer, semitrailer, and pole trailer, and any other vehicle which is being drawn at the end of a train of vehicles, shall be equipped with at least one (1) tail lamp mounted on the

rear, which when lighted as required, shall emit a red light plainly visible from a distance of five hundred (500) feet to the rear. In the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified. Every mentioned vehicle, other than a truck tractor, registered in this state and manufactured or assembled after December 31, 1955, shall be equipped with at least two (2) tail lamps mounted on the rear, which when lighted as required, shall comply with the provisions of this section.

(2) Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two (72) inches nor less than twenty (20) inches.

(3) Any tail lamp shall be wired so to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

(4) Nothing herein shall prohibit the display on any vehicle thirty (30) years or older of tail lamps containing a blue or purple insert lens not to exceed one (1) inch in diameter, provided the tail lamp or lamps otherwise comply with the requirements of this section. [1953, ch. 273, § 126, p. 478; am. 1955, ch. 84, § 13, p. 156; am. 1969, ch. 45, § 1, p. 123; am. and redesign. 1988, ch. 265, § 231, p. 549; am. 1993, ch. 95, § 1, p. 244.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-805 and was amended and redesignated by § 231 of S.L. 1988, ch. 265 to become this section.

Former § 49-906 was amended and redesignated as § 49-1005 by § 276 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Color of Taillights.

Both §§ 49-906 and 49-910 refer to only the color red when discussing colors that may be emitted from taillights, and the statutes can-

not be read to allow taillights to emit a light of any other color of a driver's choosing. *State v. Patterson*, 140 Idaho 612, 97 P.3d 479 (Ct. App. 2004).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Jury question.

Pushcarts.

Jury Question.

In action for damages, it is for jury to determine whether absence of taillight from vehicle constitutes negligence. *Tendoy v. West*, 51 Idaho 679, 9 P.2d 1026 (1932).

Pushcarts.

Pushcart was not a "vehicle" within statutes requiring all vehicles to carry rear light

in nighttime, and whether owner of pushcart, who was stuck from rear by taxicab in nighttime, was contributorily negligent in not having light on rear of the cart is for the jury. *Franklin v. Wooters*, 55 Idaho 619, 45 P.2d 804 (1935).

49-907. Motor vehicles to be equipped with reflectors. — (1) Every motor vehicle sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the tail lamps or separately, two (2) red reflectors. Every motorcycle and every motor-driven cycle shall carry at least one (1) reflector meeting the requirements of this

section. Vehicles of the type mentioned in section 49-909, Idaho Code, shall be equipped with reflectors as required in the applicable subsections.

(2) Except as otherwise provided, every reflector shall be mounted on the vehicle at a height of not less than twenty (20) inches nor more than sixty (60) inches measured as set forth in section 49-904(2), Idaho Code, and shall be of a size and characteristic and mounted so to be visible at night from all distances within three hundred fifty (350) feet to one hundred (100) feet from the vehicle when directly in front of lawful upper beams of head lamps. [1953, ch. 273, § 127, p. 478; am. 1955, ch. 84, § 14, p. 156; am. and redesign. 1988, ch. 265, § 232, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-806 and was amended and redesignated by § 232 of S.L. 1988, ch. 265 to become this section. Former § 49-907 was amended and redesignated as § 49-1006 by § 277 of S.L. 1988, ch. 265.

49-908. Stop lamps and turn signals required on motor vehicles.

— (1) After December 31, 1986, it shall be unlawful for any person to sell any motor vehicle, including any motorcycle or motor-driven cycle, in this state or for any person to drive a vehicle on the highways unless it is equipped with at least one (1) stop lamp meeting the requirements of section 49-919, Idaho Code.

(2) No person shall sell or offer for sale or operate on the highways any motor vehicle, trailer, or semitrailer registered in this state and manufactured or assembled after December 31, 1954, unless it is equipped with mechanical or electrical turn signals meeting the requirements of section 49-918, Idaho Code. This subsection shall not apply to a motorcycle or motor-driven cycle. [1953, ch. 273, § 127.1, p. 478; am. 1955, ch. 84, § 15, p. 156; am. and redesign. 1988, ch. 265, § 233, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-807 and was amended and redesignated by § 233 of S.L. 1988, ch. 265 to become this section.

Former § 49-908 was amended and redesignated as § 49-1007 by § 278 of S.L. 1988, ch. 265.

Following the revision of Title 49 by S.L. 1985, Chapter 265, the reference at the end of the first sentence in subsection (2) to section 49-918, Idaho Code, should be to section 49-919, Idaho Code.

49-909. Additional equipment required on certain vehicles. — In addition to other equipment required in this chapter, the following vehicles shall be equipped as follows:

- (1) On every bus or truck, whatever its size, there shall be:
 - (a) On each side, one (1) reflector, at or near the rear; and
 - (b) On the rear, two (2) reflectors, one (1) at each side, and one (1) stoplight.

(2) On every bus or truck eighty (80) inches or more in over-all width and less than thirty (30) feet in over-all length, in addition to the requirements in subsection (1):

(a) On the front, two (2) clearance lamps, one (1) at each side; and

(b) On the rear, two (2) clearance lamps, one (1) at each side.

(3) On every bus or truck thirty (30) feet or more in over-all length, regardless of its width, in addition to the requirements in subsection (1), clearance lamps required in subsection (2), plus:

(a) On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear; and

(b) On each side, one (1) reflector at or near the front.

(4) On every truck tractor, the cab of which is as wide as or wider than any vehicle being drawn:

(a) On the front, two (2) clearance lamps, one (1) at each side; and

(b) On each side, one (1) side marker lamp at or near the front.

(5) On every trailer or semitrailer having a gross weight in excess of three thousand (3,000) pounds, if wider than the truck or the cab of the truck tractor drawing it, the following:

(a) On the front, two (2) clearance lamps, one (1) at each side;

(b) On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear;

(c) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear; and

(d) On the rear, two (2) clearance lamps, one (1) at each side, also two (2) reflectors, one (1) at each side, and one (1) stoplight.

(6) On every trailer or semitrailer having a gross weight in excess of three thousand (3,000) pounds if of the same width or less than the truck or the cab of the truck drawing it, the following:

(a) On each side, one (1) side marker lamp near the rear;

(b) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear;

(c) On the rear, two (2) clearance lamps, one (1) at each side; and

(d) On the rear, two (2) reflectors, one (1) at each side and one (1) stoplight.

(7) On every pole trailer in excess of three thousand (3,000) pounds gross weight:

(a) On each side, one (1) side marker lamp and one (1) clearance lamp which may be in combination, to show the front, side and rear; and

(b) On the rear of the pole trailer or load, two (2) reflectors, one (1) at each side.

(8) On every trailer, semitrailer and pole trailer weighing three thousand (3,000) pounds gross or less:

(a) On the rear, two (2) reflectors, one (1) on each side; and

(b) On the front, two (2) reflectors, one (1) on each side.

(9) If any trailer or semitrailer is so loaded or is of dimensions which obscure the stoplight on the towing vehicle, then the drawn vehicle shall also be equipped with one (1) stoplight.

(10) Reflectors shall be mounted at a height no less than twenty-four (24) inches and not higher than sixty (60) inches above the ground on which the

vehicle stands. If the highest part of the permanent structure of the vehicle is less than twenty-four (24) inches, the reflector at that point shall be mounted as high as that part of the permanent structure will permit. Rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but the reflector shall meet all the other reflector requirements of this chapter.

(11) Clearance lamps shall be mounted on the permanent structure of the vehicle in a manner to indicate its extreme width and as near the top as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as prescribed for both.

(12) Lighting devices required shall be mounted, so far as practicable, in a manner to reduce the hazard of their being obscured by mud or dust thrown by the vehicle's wheels.

(13) On every trailer where the connecting tongue is fifteen (15) feet or more in length two (2) amber-colored reflectors shall be mounted on the connecting tongue, one (1) on each side near the center of the connecting tongue. [1953, ch. 273, §§ 129, 131, p. 478; am. 1965, ch. 14, § 1, p. 24; am. and redesign. 1988, ch. 265, § 234, p. 549; am. 1991, ch. 284, § 1, p. 731; am. 2005, ch. 126, § 1, p. 410.]

STATUTORY NOTES

Compiler's Notes. — Section 234 of S.L. 1988, ch. 265 amended and redesignated §§ 49-809 and 49-811 to become this section.

Former § 49-909 was amended and redesignated as § 49-1013 by § 284 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Potato Digger.

A potato digger was not a "vehicle" so as to be required to display a statutory yellow or red light or reflector visible for a distance of

not less than 500 feet in the rear. *Turner v. Purdum*, 77 Idaho 130, 289 P.2d 608 (1955), overruled on other grounds, *Schaub v. Linehan*, 92 Idaho 332, 442 P.2d 742 (1968).

49-910. Color of clearance lamps, side marker lamps, and reflectors. — (1) Front clearance lamps and marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.

(2) Rear clearance lamps and marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color.

(3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stoplight or other signal device, which may be red, amber, or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp may be white, amber, or red. [1953, ch. 273, § 130, p. 478; am. 1955, ch. 84, § 16, p. 156; am. and redesign. 1988, ch. 265, § 235, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-910, which comprised 1929, ch. 156, § 10, p. 281; I.C.A., § 48-610, was repealed by S.L. 1988, ch. 265, § 225, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-810 and was amended and redesignated by § 235 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Color of Taillights.

Both §§ 49-906 and 49-910 refer to only the color red when discussing colors that may be emitted from taillights, and the statutes can-

not be read to allow taillights to emit a light of any other color of a driver's choosing. *State v. Patterson*, 140 Idaho 612, 97 P.3d 479 (Ct. App. 2004).

49-910A. Color of lamps and globes limited to certain vehicle classes. — For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director of the Idaho state police for use on vehicles shall be restricted to the following class of vehicles:

(1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(2) Designated emergency vehicles. Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, and wreckers, as defined in section 49-124, Idaho Code, which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, are designated emergency vehicles. With the exception of school buses as provided in section 49-915, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, designated emergency vehicles described herein, vehicles authorized by the Idaho transportation board for use in the enforcement of vehicle laws specified in section 40-510, Idaho Code, and other emergency vehicles designated by the director of the Idaho state police may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(3) All vehicles. Any motor vehicle may have attached to it a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right-of-way to any stationary vehicle displaying a flashing amber light. [I.C., § 49-830A, as added by 1987, ch. 150, § 1, p. 301; am. 1988, ch. 112, § 1, 204; am. 1988, ch. 120, § 1, p. 222; am. and redesign. 1988, ch. 265, § 236, p. 549; am. 1989, ch. 310, § 23, p. 769; am. 1991, ch. 288, § 4, p. 739; am. 1993, ch. 377, § 1, p. 1385; am. 1996, ch. 308, § 2, p. 1009; am. 2000, ch. 469, § 117, p. 1450.]

STATUTORY NOTES

Prior Laws. — Former § 49-910 was repealed by § 225 of S.L. 1988, ch. 265.

Compiler's Notes. — This section was formerly compiled as § 49-830A and was amended and redesignated by § 236 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 34 of S.L.

1989, ch. 310 declared an emergency and provided that the act would become effective retroactive to January 1, 1989. Approved April 5, 1989.

Section 2 of S.L. 1993, ch. 377 declared an emergency. Approved April 1, 1993.

JUDICIAL DECISIONS

Jury Instructions.

There was no evidence that any of the flashing amber lights were attached to the truck but that they were merely part of the installed equipment on the truck; therefore,

trial court should have instructed the jury based on subsection (4) of § 49-920 instead of subsection (3) of this section. *Dabestani ex rel. Dabestani v. Bellus*, 131 Idaho 542, 961 P.2d 633 (1998).

49-911. Visibility of reflectors, clearance lamps, and marker lamps. — (1) Every reflector upon any vehicle referred to in section 49-909, Idaho Code, shall be of a size and characteristic and maintained to be readily visible at nighttime from all distances within six hundred (600) feet to one hundred (100) feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color light to the sides, and those mounted on the rear shall reflect a red color to the rear.

(2) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred (500) feet from the front and rear, respectively, of the vehicle.

(3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred (500) feet from the side of the vehicle on which mounted. [1953, ch. 273, § 132, p. 478; am. 1955, ch. 84, § 17, p. 156; am. and redesisg. 1988, ch. 265, § 237, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-812 and was amended and redesignated by § 237 of S.L. 1988, ch. 265 to become this section.

Former § 49-911 was amended and redesignated as § 49-1008 by § 279 of S.L. 1988, ch. 265.

49-912. Obstructed lights not required. — Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp, except tail lamps, need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicles required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. [1953, ch. 273, § 133, p. 478; am. and redesisg. 1988, ch. 265, § 238, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-813 and was amended and redesignated by § 238 of S.L. 1988, ch. 265 to become this section.

Former § 49-912 was amended and redesignated as § 49-1009 by § 280 of S.L. 1988, ch. 265.

49-913. Lamp or flag on projecting load. — Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of the vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in section 49-903, Idaho Code, a red light or lantern plainly visible from a distance of at least five hundred (500) feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of the load a red or fluorescent orange flag a minimum of twelve (12) inches by twelve (12) inches and hung so that the flag is visible to the driver of a vehicle approaching from the rear. [1953, ch. 273, § 134, p. 478; am. and redesign. 1988, ch. 265, § 239, p. 549; am. 2000, ch. 101, § 1, p. 222.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-814 and was amended and redesignated by § 239 of S.L. 1988, ch. 265 to become this section.

Former § 49-913 was amended and red-

esignated as § 49-1010 by § 281 of S.L. 1988, ch. 265.

Effective Dates. — Section 4 of S.L. 2000, ch. 101 provided that the act shall be in full force and effect on and after July 1, 2000.

49-914. Lamps on parked vehicles. — (1) Whenever a vehicle is lawfully parked upon a highway at the times specified in section 49-903, Idaho Code, and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon the highway, no lights need be displayed upon the parked vehicle.

(2) Whenever a vehicle is parked or stopped upon a highway, whether attended or unattended, at the times specified in section 49-903, Idaho Code, and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon the highway, the parked or stopped vehicle shall be equipped with one or more lamps meeting the following requirements: at least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from the same distance to the rear of the vehicle. The location of the lamp shall always be such that at least one (1) lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. This provision shall not apply to a motor-driven cycle.

(3) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. [1953, ch. 273, § 135, p. 478; am. and redesign. 1988, ch. 265, § 240, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-914, which comprised 1955, ch. 194, § 1, p. 420, was repealed by S.L. 1986, ch. 287, § 2.

Compiler's Notes. — This section was

formerly compiled as § 49-815 and was amended and redesignated by § 240 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Instructions.

Stopping to discharge passengers.

Visibility.

Instructions.

In an action for personal injuries sustained by the plaintiff in automobile accident, the instructions stating correct law insofar as the lights required to be placed upon defendant's vehicle and then advising the jury that nevertheless it could find the defendants negligent in failing to provide additional warnings above and beyond those required by the statute using a reasonable prudent man test, covered the contentions of plaintiffs and the applicable law when read together. *Zoret v. Breeden*, 94 Idaho 552, 494 P.2d 150 (1972).

Stopping to Discharge Passengers.

Where defendant stopped on shoulder of highway with bright lights on to permit a passenger to alight, and contended that he was not parked but only temporarily stopped

to discharge passengers, he was still in violation of the obligation of dimming lights when within 500 feet of on-coming vehicle. *Crane v. Banner*, 93 Idaho 69, 455 P.2d 313 (1969).

Visibility.

It was for the jury to determine whether visibility of plaintiff's car was such as to relieve him of the statutory duty of lighting a lamp; therefore, instruction as to display of a lamp on a vehicle parked or stopped upon a roadway or shoulder adjacent thereto, reiterating provisions of statute as to sufficient light to reveal an object within a distance of 500 feet, was not erroneous under theory plaintiff's car was visible for that distance. *Weaver v. Sibbett*, 87 Idaho 387, 393 P.2d 601 (1964).

49-915. School buses — Visual signal. — (1) Every school bus shall, in addition to any other equipment and distinctive markings required by this title, be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two (2) alternately flashing red lights located at the same level and to the rear two (2) alternately flashing red lights located at the same level. These lights shall be visible at five hundred (500) feet in normal sunlight.

(2) Any school bus shall, in addition to the lights required by subsection (1), be equipped with yellow signal lamps mounted near each of the four (4) red lamps and at the same level, but closer to the vertical centerline of the bus, which shall display two (2) alternately flashing yellow lights to the front and two (2) alternately flashing yellow lights to the rear. These lights shall be visible at five hundred (500) feet in normal sunlight. These lights shall be displayed by the school bus driver at least two hundred (200) feet before every stop at which the alternately flashing red lights required by subsection (1) will be actuated.

(3) Every school bus shall be equipped with a semaphore stop arm which shall be a flat eighteen (18) inch octagon exclusive of brackets for mounting, with reflectorized material on both sides, be red with a silver white border, and have a legend reading "stop" six (6) inches high with three-quarter (3/4) inch wide silver white letters, mounted outside the bus on the left side opposite driver's seat and have a driver-controlled mechanism. Flashing

lamps in the stop arm may be connected to the alternating red flashing signal lamp circuits. The stop arm signal may be vacuum, electric, air or manually controlled. [I.C., § 49-809A, as added by 1978, ch. 55, § 3, p. 105; am. and redesisg. 1988, ch. 265, § 241, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-915, which comprised I.C., § 49-915, as added by 1963, ch. 119, § 1, p. 347; am. 1972, ch. 53, § 1, p. 97; am. 1974, ch. 12, § 82, p. 61 was repealed by S.L. 1977, ch. 119, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-809A and was amended and redesignated by § 241 of S.L. 1988, ch. 265 to become this section.

49-916. Lamps on farm tractors, farm equipment and implements of husbandry. — (1) Every farm tractor and every self-propelled farm equipment unit or implement of husbandry not equipped with an electric lighting system shall at all times specified in section 49-903, Idaho Code, be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of the vehicle and shall also be equipped with at least one (1) lamp displaying a red light visible from at least the same distance to the rear of the vehicle, and two (2) red reflectors visible from a distance of one hundred (100) to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps. Lights required in this section shall be positioned so that one (1) lamp showing to the front and one (1) lamp or reflector showing to the rear will indicate the further projection of the tractor, unit or implement on the side of the road used in passing the vehicle.

(2) Every combination of farm tractor and towed unit of farm equipment or implement of husbandry not equipped with an electric lighting system shall at all times specified in section 49-903, Idaho Code, be equipped with the following:

(a) At least one (1) lamp mounted to indicate as nearly as practicable the extreme left projection of the combination and displaying a white light visible from a distance of not less than five hundred (500) feet to the front of the combination;

(b) Two (2) red reflectors visible from a distance of one hundred (100) to six hundred (600) feet to the rear of the combination when illuminated by the upper beams of head lamps. The reflectors shall be mounted in a manner to indicate as nearly as practicable the extreme left and right rear projections of the towed unit or implement on the highway.

(3) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry equipped with an electric lighting system shall at all times specified in section 49-903, Idaho Code, be equipped with two (2) single-beam or multiple-beam head lamps meeting the requirements of sections 49-922 or 49-924, Idaho Code, respectively or, as an alternative, section 49-926, Idaho Code, and two (2) red lamps visible from a distance of not less than five hundred (500) feet to the rear, or in the alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear and two (2) red reflectors visible from a distance of one hundred (100) to six hundred (600) feet to the rear when illuminated by the upper

beams of head lamps. Red lamps or reflectors shall be mounted in the rear of the farm tractor or self-propelled implement of husbandry to indicate as nearly as practicable the extreme left and right projections of the vehicle on the highway.

(4) The farm tractor element of every combination of farm tractor and towed farm equipment or towed implement of husbandry equipped with an electric lighting system shall at all times specified in section 49-903, Idaho Code, be equipped with two (2) single-beam or multiple-beam head lamps meeting the requirements of sections 49-922, 49-924, or 49-926, Idaho Code, [1953, ch. 273, § 136, p. 478; am. 1955, ch. 84, § 18, p. 156; am. and redesisg. 1988, ch. 265, § 242, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-816 and was amended and redesignated by § 242 of S.L. 1988, ch. 265 to become this section. Former § 49-916 was amended and redesignated as § 49-1011 by § 282 of S.L. 1988, ch. 265.

49-917. Lamps on other vehicles and equipment. — Every vehicle, including animal-drawn vehicles and other vehicles not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices, shall at all times specified in section 49-903, Idaho Code, be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of the vehicle, and shall also be equipped with two (2) lamps displaying a red light visible from the same distance to the rear of the vehicle, or as an alternative, one (1) lamp displaying a red light visible from the same distance to the rear and two (2) red reflectors visible for distances of one hundred (100) to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps. [I.C., § 49-564.16.1, as added by 1955, ch. 84, § 19, p. 156; am. and redesisg. 1988, ch. 265, § 243, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-917, which comprised I.C., § 49-917, as added by 1965, ch. 157, § 2, p. 304, was repealed by S.L. 1988, ch. 265, § 225, effective January 1, 1989. **Compiler's Notes.** — This section was formerly compiled as § 49-817 and was amended and redesignated by § 243 of S.L. 1988, ch. 265 to become this section.

49-918. Spot lamps and auxiliary lamps. — (1) Any motor vehicle may be equipped with not more than two (2) spot lamps, and each lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred (100) feet ahead of the vehicle.

(2) Any motor vehicle may be equipped with not more than two (2) fog lamps mounted on the front, at a height not less than twelve (12) inches nor more than thirty (30) inches above the level surface upon which the vehicle stands, and so aimed that when the vehicle is not loaded none of the

high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five (25) feet ahead project higher than a level of four (4) inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting these requirements may be used with lower head lamp beams as specified in section 49-922(2), Idaho Code.

(3) Any motor vehicle may be equipped with not more than two (2) auxiliary passing lamps mounted on the front at a height not less than twenty-four (24) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands. The provisions of section 49-922, Idaho Code, shall apply to any combination of head lamps and auxiliary passing lamps.

(4) Any motor vehicle may be equipped with not more than two (2) auxiliary driving lamps mounted on the front at a height not less than sixteen (16) inches nor more than forty-two (42) inches above the level surface upon which the vehicle stands. The provisions of section 49-922, Idaho Code, shall apply to any combination of head lamps and auxiliary driving lamps. [1953, ch. 273, § 137, p. 478; am. 1955, ch. 84, § 20, p. 156; am. 1957, ch. 9, § 2, p. 11; am. and redesisg. 1988, ch. 265, § 244, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-818 and was amended and redesignated by § 244 of S.L. 1988, ch. 265 to become this section.

Former § 49-918 was amended and redesignated as § 49-1012 by § 283 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: *Howes v. Fultz*, 115 Idaho 681, 769 P.2d 558 (1989).

49-919. Signal lamps and signal devices. — (1) Any motor vehicle may be equipped and when required under this chapter shall be equipped with stop lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred (100) feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may but need not, be incorporated with one or more other rear lamps.

(2) Any motor vehicle may be equipped and when required under this chapter shall be equipped with lamps or mechanical signal devices showing to the front and rear for the purposes of indicating an intention to turn either to the right or left. When lamps are used for this purpose, the lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable, and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than one hundred (100) feet to the front in normal sunlight, and the lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable, and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred (100) feet to the rear in normal

sunlight. When actuated the lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made. Where mechanical signal devices are used for this purpose, the devices shall be self-illuminated when in use at the times specified in section 49-903, Idaho Code.

(3) No stop lamp or signal lamp or device shall project a glaring light. [1953, ch. 273, § 138, p. 478; am. 1955, ch. 84, § 21, p. 156; am. and redesign. 1988, ch. 265, § 245, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 245 of S.L. formerly compiled as § 49-819 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Instructions.

In an action for personal injuries sustained by the plaintiff in automobile accident, the instructions stating correct law insofar as the lights required to be placed upon defendant's vehicle and then advising the jury that, nevertheless, it could find the defendants negli-

gent in failing to provide additional warnings above and beyond those required by the statute, using a reasonable prudent man test, covered the contentions of plaintiffs and the applicable law when read together. *Zoret v. Breeden*, 94 Idaho 552, 494 P.2d 150 (1972).

49-920. Additional lighting equipment. — (1) Any motor vehicle may be equipped with not more than two (2) side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one (1) running-board courtesy lamp on each side which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with not more than two (2) back-up lamps either separately or in combination with other lamps, but any back-up lamp shall not be lighted when the motor vehicle is in forward motion.

(4) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display that warning in addition to any other warning signals required by this title. Lamps used to display the warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade or color between white and amber. The lamps used to display the warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred (500) feet under normal atmospheric conditions at night.

(5) Any commercial vehicle eighty (80) inches or more in overall width may be equipped with not more than three (3) identification lamps showing to the front which shall emit an amber light without glare, and not more

than three (3) identification lamps showing to the rear which shall emit a red light without glare. These lamps shall be placed in a row and may be mounted either horizontally or vertically. [1953, ch. 273, § 139, p. 478; am. 1957, ch. 118, § 1, p. 197; am. and redesign. 1988, ch. 265, § 246, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 246 of S.L. formerly compiled as § 49-820 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Instructions.
Wreckers.

Instructions.

In an action for personal injuries sustained by the plaintiff in automobile accident, the instructions stating correct law insofar as the lights required to be placed upon defendant's vehicle and then advising the jury that, nevertheless, it could find the defendants negligent in failing to provide additional warnings above and beyond those required by the statute, using a reasonable prudent man test, covered the contentions of plaintiffs and the applicable law when read together. *Zoret v. Breeden*, 94 Idaho 552, 494 P.2d 150 (1972).

There was no evidence that any flashing amber lights were attached to the truck but that they were merely part of the installed equipment on the truck; therefore, trial court should have instructed the jury based on this

section. *Dabestani ex rel. Dabestani v. Bellus*, 131 Idaho 542, 961 P.2d 633 (1998).

Wreckers.

Testimony of a highway patrolman that the law did not require use of flares by wrecker drivers unless the wrecker is disabled, admitted over objection that it was opinion of a lay witness on a question of law, was inadmissible; however, its admission was not reversible error, as on direct examination the witness was led to suggest to the jury that flares were required, and upon cross-examination the court had permitted the witness to testify that it was the custom of wrecker operators to use flares. *Hawkins v. Chandler*, 88 Idaho 20, 396 P.2d 123 (1964).

49-921. Rear mounted acceleration and deceleration lighting system. — (1) Every motor vehicle, trailer, semitrailer, truck tractor, and pole trailer used in the state may be equipped with an auxiliary lighting system consisting of:

- (a) One (1) green light to be activated when the accelerator of the motor vehicle is depressed;
- (b) Not more than two (2) amber lights to be activated when the motor vehicle is moving forward, or standing and idling, but is not under the power of the engine.
- (2) An auxiliary system shall not interfere with the operation of vehicle tail lamps and shall not interfere with the operation of vehicle signal lamps and signal devices. The system may operate in conjunction with tail lamps or signal lamps and signal devices.
- (3) Only one (1) color of the system may be illuminated at any one (1) time, and at all times either the green light, or amber light or lights shall be illuminated when the tail lamps of the vehicle are not illuminated.
- (4) The green light and the amber light or lights, when illuminated, shall be plainly visible at a distance of five hundred (500) feet to the rear.
- (5) Only one (1) system may be mounted on a motor vehicle, trailer, semitrailer, truck tractor, or pole trailer; and the system shall be rear

mounted in a horizontal fashion, at a height of not more than seventy-two (72) inches, nor less than twenty (20) inches.

(6) On a combination of vehicles, only the lights of the rearmost vehicle need actually be seen and distinguished as provided in subsection (4) of this section.

(7) Each manufacturer's model of such a system described in this section shall be approved by the board before it may be sold or offered for sale in the state. [I.C., § 49-820A, as added by 1978, ch. 297, § 1, p. 754; am. and redesisg. 1988, ch. 265, § 247, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 247 of S.L. formerly compiled as § 49-820A and was 1988, ch. 265 to become this section.

49-922. Multiple-beam road-lighting equipment. — Except as otherwise provided in this chapter, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or their combinations on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that selection may be made between distributions of light projected to different elevations, and the lamps may be so arranged that the selection can be made automatically, subject to the following requirements and limitations:

(1) There shall be an uppermost distribution of light, or composite beam, so aimed and of an intensity to reveal persons and vehicles at a distance of at least three hundred fifty (350) feet ahead for all conditions of loading.

(2) There shall be a lowermost distribution of light, or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead. On a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

(3) Every motor vehicle manufactured after December 31, 1954, other than a motorcycle or motor-driven cycle, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. [1953, ch. 273, § 140, p. 478; am. 1955, ch. 84, § 22, p. 156; am. and redesisg. 1988, ch. 265, § 248, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 248 of S.L. formerly compiled as § 49-821 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Evidence.

Magistrate court's order suppressing evidence obtained as a result of a traffic stop was vacated; the magistrate's finding that defen-

dant's headlights were on low beam did not inherently constitute a finding that a deputy's testimony, that he believed that defendant's lights were on high beam in violation of Idaho

statutes concerning the use of headlights, was not credible. *State v. Kimball*, 141 Idaho 489, 111 P.3d 625 (Ct. App. 2005).

49-923. Use of multiple-beam road-lighting equipment. —

(1) Whenever a motor vehicle is being operated on a highway during the times specified in section 49-903, Idaho Code, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle.

(2) Whenever a driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, the driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, shall be deemed to avoid glare at all times, regardless of road contour and loading.

(3) Whenever the driver of a vehicle follows another vehicle within two hundred (200) feet to the rear, except when engaged in the act of overtaking and passing, the driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in section 49-922, Idaho Code. [1953, ch. 273, § 141, p. 478; am. 1955, ch. 84, § 23, p. 156; am. and redesisg. 1988, ch. 265, § 249, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 249 of S.L. formerly compiled as § 49-822 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: *Crane v. Banner*, 93 Idaho 69, 455 P.2d 313 (1969); *State v. Kimball*, 141 Idaho 489, 111 P.3d 625 (Ct. App. 2005).

49-924. Single-beam road-lighting equipment. — Head lamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured prior to January 1, 1955, in lieu of multiple-beam road-lighting equipment specified in this chapter if the single distribution of light complies with the following requirements and limitations:

(1) The head lamps shall be so aimed that when the vehicle is not loaded, none of the high-intensity portion of the light shall at a distance of twenty-five (25) feet ahead project higher than a level of five (5) inches below the level of the center of the lamp from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands at a distance of seventy-five (75) feet ahead.

(2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred (200) feet. [1953, ch. 273, § 142, p. 478; am. and redesisg. 1988, ch. 265, § 250, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 250 of S.L. formerly compiled as § 49-823 and was 1988, ch. 265 to become this section.

49-925. Lighting equipment on motor-driven cycles. — The head lamp upon every motor-driven cycle may be of the single-beam or multiple-beam type, but in either event shall comply with the requirements and limitations as follows:

(1) Every head lamp on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred (100) feet when the motor-driven cycle is operated at any speed less than twenty-five (25) miles per hour and at a distance of not less than two hundred (200) feet when the motor-driven cycle is operated at a speed of twenty-five (25) or more miles per hour, and at a distance of three hundred (300) feet when the motor-driven cycle is operated at a speed of thirty-five (35) miles or more per hour.

(2) In the event a motor-driven cycle is equipped with multiple-beam head lamps, the beams shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in section 49-922, Idaho Code.

(3) In the event a motor-driven cycle is equipped with a single-beam lamp, the lamp shall be so aimed that when the vehicle is loaded, none of the high-intensity portion of light, at a distance of twenty-five (25) feet ahead, shall project higher than the level of the center of the lamp from which it comes. [1953, ch. 273, § 143, p. 478; am. and redesign. 1988, ch. 265, § 251, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 251 of S.L. formerly compiled as § 49-824 and was 1988, ch. 265 to become this section.

49-926. Alternate road-lighting equipment. — Any motor vehicle may be operated under the conditions specified in section 49-903, Idaho Code, when equipped with two (2) lighted lamps upon the front capable of revealing persons and objects seventy-five (75) feet ahead in lieu of lamps required in section 49-922 or section 49-924, Idaho Code. At no time shall it be operated at a speed in excess of twenty (20) miles per hour. [1953, ch. 273, § 144, p. 478; am. and redesign. 1988, ch. 265, § 252, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 252 of S.L. formerly compiled as § 49-825 and was 1988, ch. 265 to become this section.

49-927. Number of driving lamps required or permitted. — (1) At all times specified in section 49-903, Idaho Code, at least two (2) lighted lamps shall be displayed, one (1) on each side at the front of every motor vehicle other than a motorcycle or motor-driven cycle, except when the

vehicle is parked subject to the requirements governing lights on parked vehicles.

(2) Whenever a motor vehicle equipped with required head lamps is also equipped with any auxiliary lamps, a spot lamp, or any other lamp on the front projecting a beam of intensity greater than three hundred (300) candlepower, not more than a total of four (4) lamps on the front of a vehicle shall be lighted at any one (1) time when upon a highway. [1953, ch. 273, § 145, p. 478; am. and redesign. 1988, ch. 265, § 253, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 253 of S.L. formerly compiled as § 49-826 and was 1988, ch. 265 to become this section.

49-928. Special restrictions on lamps. — (1) Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, or flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the high-intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.

(2) No person shall drive or move any vehicle or equipment upon any highway with any lamp or device displaying a red light visible from directly in front of the center of the vehicle or equipment. This section shall not apply to any vehicle upon which a red light visible from the front is expressly authorized or required by this title.

(3) As a practical means of determining whether head lamps or auxiliary driving or fog lamps glare the following test shall apply: Any such lamp shall be deemed to be glaring if any part of the main beam strikes the body of a person, vehicle, screen or other object higher than the lamp centers twenty-five (25) feet or more ahead of the vehicle and in no event shall the main bright portion of the beam be higher than forty-two (42) inches at a distance of seventy-five (75) feet ahead of the vehicle.

(4) Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow removal equipment, or on any vehicle as a means for indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing. [1953, ch. 273, § 146, p. 478; am. 1955, ch. 84, § 24, p. 156; am. 1957, ch. 118, § 2, p. 197; am. and redesign. 1988, ch. 265, § 254, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 254 of S.L. formerly compiled as § 49-827 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Instructions.

In an action for personal injuries sustained by the plaintiff in automobile accident, the instructions stating correct law insofar as the lights required to be placed upon defendant's vehicle and then advising the jury that, nevertheless, it could find the defendants negli-

gent in failing to provide additional warnings above and beyond those required by the statute, using a reasonable prudent man test, covered the contentions of plaintiffs and the applicable law when read together. *Zoret v. Breeden*, 94 Idaho 552, 494 P.2d 150 (1972).

49-929. Lights on snow removal equipment. — It shall be unlawful to operate any snow removal equipment on any highway unless lamps on the equipment comply with and are lighted when and as required by the standards and specifications adopted by the director of the Idaho transportation department. [1953, ch. 273, § 146.1, p. 478; am. 1974, ch. 12, § 72, p. 61; am. 1981, ch. 115, § 1, p. 196; am. and redesign. 1988, ch. 265, § 255, p. 549; am. 1991, ch. 86, § 1, p. 191.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-828 and was amended and redesignated by § 255 of S.L. 1988, ch. 265 to become this section.

49-930. Selling or using lamps or equipment. — (1) No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, or semitrailer, or use upon any vehicle any head lamp, auxiliary or fog lamp, rear lamp, or reflector which reflector is required in this chapter, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been submitted to the director and approved by him, and which bears the trademark or name under which it is approved so as to be legible when installed.

(2) No person shall use upon any motor vehicle, trailer, or semitrailer any lamps mentioned in this section unless the lamps are mounted, adjusted and aimed in accordance with instructions of the department. [1953, ch. 273, § 147, p. 478; am. 1955, ch. 84, § 25, p. 156; am. 1974, ch. 27, § 130, p. 811; am. and redesign. 1988, ch. 265, § 256, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-829 and was amended and redesignated by § 256 of S.L. 1988, ch. 265 to become this section.

49-931, 49-932. [Reserved.]

49-933. Brakes. — (1) Every motor vehicle, other than a motorcycle or motor-driven cycle, when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels. If the two (2) separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one (1) part of the operating

mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

(2) Every motorcycle and every motor-driven cycle, when operated upon a highway, shall be equipped with at least one (1) brake, which may be operated by hand or foot.

(3) Every trailer or semitrailer of an unladen weight of one thousand five hundred (1,500) pounds or more when operated upon a highway shall be equipped with brakes adequate to control the movement of and to stop and hold the vehicle and be designed to be applied by the driver of the towing motor vehicle from its cab. The brakes shall be designed and so connected that in case of an accidental breakaway of the towed vehicle, the brakes shall be automatically applied.

(4) Every new motor vehicle, trailer, or semitrailer sold in this state and operated upon the highways shall be equipped with service brakes upon all wheels of the vehicle, except that any motorcycle or motor-driven cycle, trucks and truck tractors having three (3) or more axles need not have brakes on the front wheels. Vehicles equipped with at least two (2) steerable axles need not be equipped with brakes on the wheels of one (1) axle, and any trailer or semitrailer of less than one thousand five hundred (1,500) pounds unladen weight need not be equipped with brakes. Every farm trailer while being used hauling agricultural products or livestock from farm to storage, marketing or processing plant, or returning therefrom, and used within a radius of fifty (50) miles, shall be exempt from these braking requirements.

(5) One (1) of the means of brake operation shall consist of a mechanical connection from the operating lever, or by equivalent means to the brake shoes or bands, and this brake shall be capable of holding the vehicle, or combination of vehicles, stationary under any condition of loading on any upgrade or downgrade upon which it is operated.

(6) Brake shoes operating within or upon the drums on the vehicle wheels of any motor vehicle may be used for both service and hand operation.

(7) Every motor vehicle or combination of vehicles, at all times and under all conditions of loading, shall, upon application of the service (foot) brake, be capable of decelerating and developing a braking force equivalent to minimum required deceleration, and stopping within the requirements set forth in this subsection:

	Stopping distance in feet	Deceleration in feet per second	Equivalent braking force in percentage of vehicle or combination weight
Passenger vehicles, not including buses	25	17	53.0%
Single-unit vehicles with a manufacturer's gross vehicle weight rating of less than 10,000 pounds	30	14	43.5%

	Stopping distance in feet	Deceleration in feet per second	Equivalent braking force in percentage of vehicle or combination weight
Single-unit, 2-axle vehicles with a manufacturer's gross vehicle weight rating of 10,000 or more pounds	40	14	43.5%
All other vehicles and combina- tions with a manufacturer's gross vehicle weight rating of 10,000 or more pounds	50	14	43.5%

Compliance with these standards shall be determined either by actual road tests conducted on a substantially level, not to exceed a plus or minus one per cent (1%) grade, dry, smooth, hard-surfaced road that is free from loose material, with stopping distances measured from the actual instant braking controls are moved and from an initial speed of twenty (20) miles per hour; or else by suitable mechanical tests in a testing lane which recreates the same conditions; or by a combination of both methods.

(8) All brakes shall be maintained in good working order and shall be adjusted to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. [1953, ch. 273, § 150, p. 478; am. 1955, ch. 84, § 27, p. 156; am. 1963, ch. 137, § 1, p. 389; am. 1969, ch. 332, § 1, p. 1048; am. 1970, ch. 15, § 1, p. 28; am. and redesisg. 1988, ch. 265, § 257, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 257 of S.L. formerly compiled as § 49-832 and was 1988, ch. 265 to become this section.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 199.

C.J.S. — 60A C.J.S., Motor Vehicles, § 530 et seq.

A.L.R. — Comment note on effect of violation of safety equipment statute as establishing negligence in automobile accident litigation. 38 A.L.R.3d 530.

Liability of owner or operator of motor vehicle for injury, death, or property damage resulting from defective brakes. 40 A.L.R.3d 9.

Failure to set brakes, or maintain adequate brakes, as causing accidental runaway of parked motor vehicle. 42 A.L.R.3d 1252.

49-934. Brakes on motor-driven cycles. — (1) The director is authorized to require an inspection of the brake on any motor-driven cycle and to disapprove any brake which he finds will not comply with the performance standard set forth in section 49-933, Idaho Code, or which in his opinion is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(2) The director may request the department to refuse registration for, or suspend or revoke the registration of any vehicle referred to in this section when he determines that the brake on the vehicle does not comply with the provisions of this section.

(3) No person shall operate on any highway any vehicle referred to in this section in the event the director has disapproved the brake equipment upon that vehicle or type of vehicle. [1953, ch. 273, § 150.5, p. 478; am. 1974, ch. 27, § 133, p. 811; am. and redesign. 1988, ch. 265, § 258, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 258 of S.L. formerly compiled as § 49-833 and was 1988, ch. 265 to become this section.

49-935, 49-936. [Reserved.]

49-937. Mufflers, prevention of noise. — (1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway. When any motor vehicle was originally equipped with a noise suppressing system or when any motor vehicle is required by law or regulation of this state or the federal government to have a noise suppressing system, that system shall be maintained in good working order. No person shall disconnect any part of that system except temporarily in order to make repairs, replacements or adjustments, and no person shall modify or alter that system or its operation in any manner, except to conform to the manufacturer's specifications. No person shall knowingly operate and no owner shall knowingly cause or permit to be operated any motor vehicle originally equipped or required by any law or regulation of the state or the federal government to be equipped with a noise suppressing system while any part of that system is disconnected or while that system or its operation is modified or altered in any manner, except to conform to the manufacturer's specifications.

(2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.

(3) No person shall modify the exhaust system of a motor vehicle or a motorcycle in a manner which will amplify or increase the noise of the vehicle or motorcycle above that emitted by the muffler originally installed on the vehicle by the manufacturer.

(4) A showing that the sound made by a passenger motor vehicle or motorcycle exceeds the maximum allowable decibel level shall be prima facie evidence of a violation of subsection (1) of this section.

(5) No person shall sell, offer for sale, or install any noise suppressing system or device which will produce excessive or unusual noise. [1953, ch. 273, § 152, p. 478; am. 1971, ch. 86, § 1, p. 188; am. 1973, ch. 238, § 1, p. 490; am. 1974, ch. 53, § 1, p. 1115; am. and redesign. 1988, ch. 265, § 259, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 259 of S.L. formerly compiled as § 49-835 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Constitutionality.

This section is not unconstitutionally vague. *State v. Shearer*, 136 Idaho 217, 30 P.3d 995 (Ct. App. 2001).

RESEARCH REFERENCES

C.J.S. — 60A C.J.S., Motor Vehicles, § 554.

49-938, 49-939. [Reserved.]

49-940. Mirrors. — (1) Every motor vehicle shall be equipped with a mirror so located as to reflect to the operator a view of the highway for a distance of at least two hundred (200) feet to the rear of the vehicle.

(2) When a motor vehicle is so loaded or constructed, or is towing a vehicle or trailer which is so loaded or constructed, as to obstruct the driver's view straight to the rear, then the motor vehicle shall be equipped with a mirror on the left side and a mirror on the right side so located as to reflect to the operator a view of the highway for a distance of at least two hundred (200) feet to the rear of the vehicle.

(3) When an operator of a motor vehicle is transporting under special permit authority an oversize load which makes mirrors impractical devices for reflecting to the operator a view of the highway to the rear, a following escort vehicle equipped with proper mirrors meeting the requirements herein may be substituted for the required mirrors on the hauling motor vehicle. The escort vehicle must be a car or light truck and it must be equipped with an oversize load sign, flashing or rotating lights, and a two (2) way radio which provides full-time communication with the escorted vehicle. [1953, ch. 273, § 153, p. 478; am. 1959, ch. 42, § 1, p. 88; am. 1969, ch. 414, § 1, p. 1149; am. and redesign. 1988, ch. 265, § 260, p. 549; am. 1992, ch. 222, § 1, p. 671.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 260 of S.L. formerly compiled as § 49-836 and was 1988, ch. 265 to become this section.

RESEARCH REFERENCES

C.J.S. — 61A C.J.S., Motor Vehicles, § 1277.

49-941, 49-942. [Reserved.]

49-943. Windshields to be unobstructed and equipped with wipers. — (1) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of the vehicle which obstructs the driver's clear view of the highway or any intersecting highway.

(2) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be constructed as to be controlled or operated by the driver of the vehicle.

(3) Every windshield wiper upon a motor vehicle shall be maintained in good working order. [1953, ch. 273, § 154, p. 478; am. and redesign. 1988, ch. 265, § 261, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 261 of S.L. formerly compiled as § 49-837 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

Unobstructed View.

Canvas stretched across upper panel of truck door violated former statute regulating windshields. *Ineas v. Union P.R.R.*, 72 Idaho 390, 241 P.2d 1178 (1952).

Driving a truck with canvas in place of glass in upper panel of truck door was held negligence per se. *Ineas v. Union P.R.R.*, 72 Idaho 390, 241 P.2d 1178 (1952).

Failure of driver to stop truck before crossing railroad tracks, and presence of canvas covering across upper panel of truck door next

to passenger could properly be considered in determining lack of due care on the part of the passenger. *Ineas v. Union P.R.R.*, 72 Idaho 390, 241 P.2d 1178 (1952).

Passenger in truck could not recover from railroad where driver failed to heed stop sign, and canvas covering in upper panel of truck door obstructed view at heavily traveled crossing, if at time of accident there was no other traffic, since passenger was guilty of contributory negligence. *Ineas v. Union P.R.R.*, 72 Idaho 390, 241 P.2d 1178 (1952).

RESEARCH REFERENCES

A.L.R. — Liability for motor vehicle accident where vision of driver is obscured by smoke, dust, atmospheric condition, or unclean windshield. 32 A.L.R.4th 933.

49-944. Standards for windshields and windows of motor vehicles — Prohibited acts — Penalty. — (1) It is unlawful for any person to place, install, affix or apply any window tinting film or sunscreening device to the windows of any motor vehicle, except as follows:

(a) Nonreflective window tinting film or sunscreening devices shall not be applied to the windshield below the AS-1 line; if no AS-1 line is identifiable on the windshield, nonreflective window tinting film or sunscreening devices shall not be applied to the windshield below a line extending six (6) inches below and parallel to the exposed windshield;

(b) Nonreflective window tinting film or sunscreening devices that have a light transmission of not less than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the front side vents, front side windows to the immediate right and left of the driver, and the rear window;

(c) Nonreflective window tinting film or sunscreening devices that have a light transmission of not less than twenty percent (20%) with a tolerance

limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the side windows to the rear of the driver;

(d) Window tinting films or sunscreening devices are materials or devices which are designed to be used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of the sun;

(e) Light transmission is the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material to the amount of total light falling on the product or material;

(f) Luminous reflectance is the ratio of the amount of total light, expressed in percentages, which is reflected outward by the product or material to the amount of total light falling on the product or material.

(2) No person shall operate on the public highways, sell, or offer to sell any motor vehicle with a windshield or windows which are not in compliance with the provisions of this section.

(3) Persons who own a motor vehicle with a windshield or windows not in compliance with the provisions of this section on June 30, 1992, shall not be charged with a violation of the provisions of this section until January 1, 1993. Persons owning a motor vehicle with a windshield or windows not in compliance with the provisions of this section on June 30, 1992, shall have until January 1, 1993, to obtain a certificate from the Idaho state police indicating that the person owned the motor vehicle containing a windshield or windows not in compliance with the provisions of this section on or before June 30, 1992. The certificate shall be carried in the vehicle. A person operating a motor vehicle with a valid certificate as provided in this subsection shall not be deemed to be violating the provisions of this section on or after January 1, 1993. The Idaho state police may promulgate rules in order to implement the provisions of this section.

(4) Nonreflective window tinting film or suncreening devices that have a light transmission of not less than seventy percent (70%) plus or minus three percent (3%) for the front windshield and not less than twenty percent (20%) plus or minus three percent (3%) for the windows, with a luminous reflectance of no more than thirty-five percent (35%) plus or minus three percent (3%) in each instance, is permitted for a motor vehicle operated by, or carrying as a passenger, a person who possesses written verification from a licensed physician that the operator or passenger must be protected from exposure to sunlight or heat for medical reasons associated with past or current treatment; such written verification shall be carried in the vehicle.

(5) Nothing in this section shall be construed to make illegal the operation or sale of any motor vehicle, the windshield or windows of which are composed of, covered by, or treated with, any material, substance, system, or component with which the motor vehicle was sold when new or could have been equipped for sale when new as standard or optional equipment from the manufacturer or authorized dealer under any United States government statute or regulation governing such sale at the time of manufacture.

(6) Any person convicted of a violation of the provisions of this section shall be guilty of an infraction. [I.C., § 49-944, as added by 1992, ch. 88, § 3, p. 274; am. 1993, ch. 400, § 1, p. 1465; am. 2000, ch. 469, § 118, p. 1450.]

STATUTORY NOTES

Prior Laws. — Former § 49-944 which comprised I.C. § 49-837A, as added by 1978, ch. 71, § 1, p. 141; am. 1979, ch. 94, § 1, p. 232; am. 1981, ch. 223, § 12, p. 415; am. 1982, ch. 353, § 32, p. 874; am. and redesisg. 1988, ch. 265, § 262, p. 549 was repealed by § 2 of S.L. 1992, ch. 88.

Compiler's Notes. — Section 2 of S.L. 1993, ch. 400 read: "For the period January 1, 1993 through June 30, 1993, an extension is granted to the January 1, 1993 compliance date specified in subsection (3) of section

49-944, Idaho Code. During the period January 1, 1993 through June 30, 1993, the Idaho Department of Law Enforcement shall present written warning cards for any violation of the provisions of this act. Such cards will serve notice that window tint levels are outside legal limits and must be corrected within ten (10) days. As of July 1, 1993, any violation of the provisions of this act shall be an infraction under the provisions of subsection (6) of section 49-144 [49-944], Idaho Code."

49-945. Safety glazing material in motor vehicles. — No person shall sell any new motor vehicle, nor shall any new motor vehicle be registered unless the vehicle is equipped with safety glazing material of a type approved by the director wherever glazing material is used in doors, windows, and windshields. This provision shall apply to all passenger-type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows, and windshields in the drivers' compartments of the vehicles. [1953, ch. 273, § 154.5, p. 478; am. 1955, ch. 84, § 28, p. 156; am. 1974, ch. 27, § 134, p. 811; am. and redesisg. 1988, ch. 265, § 263, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 263 of S.L. formerly compiled as § 49-838 and was 1988, ch. 265 to become this section.

49-946, 49-947. [Reserved.]

49-948. Restrictions as to tire equipment. — (1) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one (1) inch thick above the edge of the flange of the entire periphery.

(2) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the highway.

(3) No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, spike, or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except as allowed herein. It shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and it shall be permissible to use tire chains. Tires with built-in lugs of tungsten carbide or other suitable material, hereinafter called studs, may be used upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid, that will not unduly damage the highway. Motor vehicles, trailers and semitrailers with tires having built-in studs are prohibited on public highways between the dates of May 1 and September 30, annually, except as provided in paragraphs (a), (b) and (c) of this subsection:

(a) Fire pumper/tanker trucks and ladder trucks belonging to fire departments and firefighting agencies are exempt from the prohibited dates.

(b) A vehicle may be equipped year-round with tires that have retractable studs if the studs retract pneumatically or mechanically to at or below the wear bar of the tire when not in use and the retractable studs protrude beyond the wear bar of the tire only between October 1 and April 30. Retractable studs may be made of metal or other material and are not subject to the stud weight requirements of subsection (4) of this section.

(c) Special exemptions from the prohibited dates may be granted by the Idaho transportation board if it is found by the board that enhancements to public safety outweigh the increased pavement wear.

(4) Commercial tire retailers shall not sell studded tires with studs exceeding the following weight and protrusion limitations after July 1, 2005. Commercial tire retailers and tire shops shall not manually install studs exceeding the following weight and protrusion limitations after July 1, 2005.

(a) Studs shall not protrude more than six-hundredths (.06) of an inch from the surface of the tire tread when originally installed.

(b) Stud size shall be as recommended by the manufacturer of the tire for the type and size of the tire.

(c) Studs shall individually weigh no more than one and one-half (1.5) grams if the stud is size 14 or less.

(d) Studs shall individually weigh no more than two and three-tenths (2.3) grams if the stud size is 15 or 16.

(e) Studs shall individually weigh no more than three (3) grams if the stud size is 17 or larger.

(5) If the Idaho transportation department determines, at any time, that Lookout Pass or Fourth of July Pass on interstate 90 or Lolo Pass on state highway 12 is of an unsafe condition so as to require chains, as defined in section 49-104, Idaho Code, in addition to pneumatic tires, the Idaho transportation department may establish requirements for the use of chains on all commercial vehicles as defined in section 49-123(2)(c)1. and 2., Idaho Code, traveling on interstate 90 or state highway 12. If the Idaho transportation department establishes that chains are so required, the Idaho transportation department shall:

(a) Provide multiple advance notices of the chain requirement;

(b) Provide adequate opportunities for pull out;

(c) Provide notification at a point at which the commercial vehicle can safely pull out of the normal flow of traffic, prior to the point at which chains are required; and

(d) In no case post requirements for chains on bare pavement.

(6) Provided that the conditions in subsection (5) of this section are met, the chain requirement shall be met by chaining a minimum of one (1) tire on each side of:

(a) One (1) drive axle, regardless of the number of drive axles; and

(b) One (1) axle at or near the rear of each towed vehicle. Such axle shall not include a variable load suspension axle or an axle of a converter dolly.

(7) Chains as required in subsection (6)(a) and (b) of this section mean "chains" as defined in section 49-104, Idaho Code. Any other traction device

differing from chains in construction, material or design but capable of providing traction equal to or exceeding that of chains under similar conditions may be used.

(8) The Idaho transportation department shall place and maintain signs and other traffic control devices on the interstate and state highway passes as designated in subsection (5) of this section that indicate the chain requirements under subsection (6) of this section.

(9) Exempt from the chaining requirements provided for in subsections (5) and (6) of this section are:

(a) Motor vehicles operated by the Idaho transportation department when used in the maintenance of the interstate or state highway system; and

(b) The following:

(i) Motor vehicles employed solely in transporting school children and teachers to or from school or to or from approved school activities, when the motor vehicle is either:

1. Wholly owned and operated by such school; or

2. Leased or contracted by such school and the motor vehicle is not used in furtherance of any other commercial enterprise;

(ii) Motor vehicles controlled and operated by any farmer when used in the transportation of the farmer's farm equipment or in the transportation of supplies to the farmer's farm;

(iii) The transportation of agricultural products including fresh fruits and vegetables, livestock, livestock feed or manure at any time of the year;

(iv) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States;

(v) Motor carriers transporting products of the forest at any time of the year, including chip trucks;

(vi) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, excepting petroleum products; and

(vii) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, commonly known as a "wrecker truck" or "tow truck." [1953, ch. 273, § 155, p. 478; am. 1965, ch. 9, § 1, p. 17; am. 1974, ch. 12, § 73, p. 61; am. and redesign. 1988, ch. 265, § 264, p. 549; am. 2003, ch. 124, § 1, p. 374; am. 2007, ch. 101, § 1, p. 305; am. 2008, ch. 330, § 3, p. 907.]

STATUTORY NOTES

Amendments. — The 2007 amendment, by ch. 101, added subsection (3)(b) and made a related redesignation.

The 2008 amendment, by ch. 330, added subsections (5) through (9).

Compiler's Notes. — This section was

formerly compiled as § 49-839 and was amended and redesignated by § 264 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 4 of S.L. 2008, ch. 330 declared an emergency. Approved April 1, 2008.

JUDICIAL DECISIONS

Burden of Proof.

The state was not required to prove that the state transportation board had exercised its delegated authority to prohibit the use of studded snow tires in the spring in order to

establish that the defendant had illegally driven his car with such tires. *State v. Nickerson*, 132 Idaho 406, 973 P.2d 758 (Ct. App. 1999).

RESEARCH REFERENCES

A.L.R. — Liability for injury or death allegedly caused by defective tire. 81 A.L.R.3d 318.

49-949. Requirement as to fender or covers over all wheels on motor vehicles. — (1) It shall be unlawful for any person to operate or move or any owner to permit to be operated or moved, any motor vehicle, truck, bus, semitrailer or trailer, upon any highway without having the vehicle equipped with fenders or covers which may include flaps or splash aprons, over and to the rear of wheels, as follows:

- (a) On the rear wheels of every truck equipped with a body, bus, trailer or semitrailer the fenders or covers shall extend in full width from a point above and forward of the center of the tires over and to the rear of the wheels to a point that is not more than ten (10) inches above the surface of the highway when the vehicle is empty;
 - (b) Behind the rear wheels of every truck not equipped with a body the fenders or covers shall extend downward in full width from a point not lower than halfway between the center of the wheels and the top of the tires on the wheels to a point that is not more than ten (10) inches above the surface of the highway when the vehicle is empty;
 - (c) Behind all wheels of every motor vehicle other than trucks, buses, semitrailers, or trailers, the fenders or covers shall extend in full width from a point above and forward of the center of the tire over and to the rear of the wheel to a point that is not more than twenty (20) inches above the surface of the highway, unless the bumper is a factory built bumper fastened directly to the frame of the vehicle pursuant to factory installation requirements;
 - (d) Fenders or covers are not required on any modified American-made pre-1935 vehicle, or any identifiable vintage or replica thereof that is titled as a later assembled vehicle or replica and is used for show and pleasure use when such vehicle is used and driven only during fair weather on well-maintained hard-surfaced roads.
- (2) Fenders or covers, as used in subsection (1) of this section, shall be deemed to be of sufficient size and construction as to comply with those requirements if constructed as follows:
- (a) When measured on the cross sections of the tread of the wheel or on the combined cross sections of the treads of multiple wheels, the fender or cover extends at least to each side of the width of the tire or of the combined width of the multiple tires, as the case may be;
 - (b) The fender or cover is constructed as to be capable at all times of arresting and deflecting dirt, mud, water, or other substance as may be picked up and carried by wheels;

(c) For school buses if the body extension behind the rear wheels exceeds five (5) feet. [1953, ch. 273, § 155.1, p. 478; am. 1981, ch. 316, § 1, p. 660; am. 1982, ch. 353, § 33, p. 874; am. and redesign. 1988, ch. 265, § 265, p. 549; am. 1990, ch. 175, § 1, p. 372; am. 1997, ch. 376, § 1, p. 1206.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 265 of S.L. formerly compiled as § 49-840 and was 1988, ch. 265 to become this section.

49-950, 49-951. [Reserved.]

49-952. Certain vehicles to carry flares or other warning devices.

— (1) No person shall operate any truck, bus, or truck tractor upon any highway outside the corporate limits of municipalities at any time specified in section 49-903, Idaho Code, unless there shall be carried in the vehicle the following equipment, except as provided in subsection (2):

(a) At least three (3) flares, or three (3) red electric lanterns, or three (3) portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred (600) feet under normal atmospheric conditions at nighttime.

(b) At least two (2) red-cloth flags, not less than twelve (12) inches square, with standards to support the flags.

(c) No flare, fusee, electric lantern or cloth warning flag shall be used for the purpose of compliance with the requirements of this section unless the equipment is of a type which has been submitted to the board and approved by it. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is designed and constructed to include two (2) reflecting elements one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within six hundred (600) feet to one hundred (100) feet under normal atmospheric conditions at night when directly in front of lawful upper beams of head lamps, and unless it is of a type which has been submitted to the board and approved by it.

(2) No person shall operate at the time and under conditions stated in subsection (1) any motor vehicle used in the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases, or any motor vehicle using a compressed gas as a fuel unless there shall be carried in the vehicle three (3) red electric lanterns or three (3) portable red emergency reflectors meeting the requirements of subsection (1) of this section, and there shall not be carried in any compressed gas propelled vehicle any flares, fusees, or signal produced by flame. [1953, ch. 273, § 156, p. 478; am. 1955, ch. 84, § 29, p. 156; am. 1953, ch. 273, § 156, p. 478; am. 1955, ch. 84, § 29, p. 156; am. and redesign. 1988, ch. 265, § 266, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 266 of S.L. formerly compiled as § 49-841 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Dealers.

Statutes which require that safety devices be carried in every vehicle from sunset to sunrise and which impose certain safety requirements on operators with a disabled vehicle clearly applied only to one who was either an operator or driver of the vehicle at issue, and as none of these safety statutes

mention dealers. There was no statutory duty imposed upon a licensed commercial dealer of used motor vehicles to inspect for, equip vehicles with or to warn buyers of the absence of statutorily required safety devices. *Mugavero v. A-1 Auto Sales, Inc.*, 130 Idaho 554, 944 P.2d 151 (Ct. App. 1997).

49-953. Display of warning devices when vehicle disabled. —

(1) Whenever any truck, bus, truck tractor, trailer, semitrailer, or pole trailer is disabled upon the traveled portion or the shoulder of any highway outside of any municipality at any time when lighted lamps are required on vehicles, the driver of the vehicle shall display the following warning devices upon the highway during the time the vehicle is disabled on the highway except as provided in subsection (2):

(a) A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall be immediately placed at the traffic side of the motor vehicle in the direction of the nearest approaching traffic.

(b) As soon thereafter as possible, but in any event within the burning period of the fusee (15 minutes), the driver shall place three (3) liquid-burning flares (pot torches), or three (3) lighted red electric lanterns, or three (3) portable red emergency reflectors on the traveled portion of the highway in the following order:

1. One, approximately two hundred (200) feet from the disabled vehicle in the center of the lane occupied by the vehicle and toward traffic approaching in that lane.

2. One, approximately two hundred (200) feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by the vehicle.

3. One at the traffic side of the disabled vehicle not less than ten (10) feet rearward or forward in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph 1. of this subsection, it may be used for this purpose.

(2) Whenever any vehicle referred to in this section is disabled within five hundred (500) feet of a curve, hill crest, or other obstruction to view, the warning signal in that direction shall be placed to afford ample warning to other users of the highway, but in no case less than five hundred (500) feet from the disabled vehicle.

(3) Whenever any vehicle of a type referred to in this section is disabled upon any portion of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections (1) and (5) of this section shall be placed one (1) at a distance of approximately two

hundred (200) feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one (1) at a distance of approximately one hundred (100) feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; and one (1) at the traffic side of the vehicle and approximately ten (10) feet from the vehicle in the direction of the nearest approaching traffic.

(4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion or the shoulder of a highway outside any municipality at any time when the display of fusees, flares, red electric lanterns or portable red emergency reflectors is not required, the driver of the vehicle shall display two (2) red flags upon the highway in the lane of traffic occupied by the disabled vehicle, one (1) at a distance of approximately two hundred (200) feet in advance of the vehicle, and one (1) at a distance of approximately two hundred (200) feet to the rear of the vehicle.

(5) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway at any time or place mentioned in subsection (1) of this section, the driver of the vehicle shall immediately display one (1) red electric lantern or portable red emergency reflector placed on the highway at the traffic side of the vehicle, and two (2) red electric lanterns or portable red reflectors, one (1) placed approximately two hundred (200) feet to the front and one (1) placed approximately two hundred (200) feet to the rear of the disabled vehicle in the center of the traffic lane occupied by the vehicle. Flares, fusees, or signals produced by flame shall not be used as warning devices for disabled vehicles of the type mentioned in this subsection.

(6) Flares, fusees, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the requirements of section 49-952, Idaho Code. [1953, ch. 273, § 157, p. 478; am. 1955, ch. 84, § 30, p. 156; am. and redesign. 1988, ch. 265, § 267, p. 549; am. 1992, ch. 115, § 22, p. 345.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 267 of S.L. formerly compiled as § 49-842 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Dealers.
Wreckers.

Dealers.

Statutes which require that safety devices be carried in every vehicle from sunset to sunrise and which impose certain safety requirements on operators with a disabled vehicle clearly applied only to one who was

either an operator or driver of the vehicle at issue, and as none of these safety statutes mention dealers. There was no statutory duty imposed upon a licensed commercial dealer of used motor vehicles to inspect for, equip vehicles with or to warn buyers of the absence of

statutorily required safety devices. *Mugavero v. A-1 Auto Sales, Inc.*, 130 Idaho 554, 944 P.2d 151 (Ct. App. 1997).

Wreckers.

The operator of a wrecker truck is required by statute to carry flares but is not required to use them unless the wrecker is disabled. *Hawkins v. Chandler*, 88 Idaho 20, 396 P.2d 123 (1964).

Trial court correctly submitted to jury the issue as to whether wrecker operator was negligent in failing to place flares or other authorized signaling devices upon the highway prior to time wrecker was struck by defendant's automobile. *Hawkins v. Chandler*, 88 Idaho 20, 396 P.2d 123 (1964).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 200.

C.J.S. — 60A C.J.S., Motor Vehicles, § 657 et seq.

49-954, 49-955. [Reserved.]

49-956. Horns and warning devices. — (1) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred (200) feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation give audible warning with his horn, but shall not otherwise use the horn when upon a highway.

(2) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.

(3) It is permissible, but not required for any vehicle to be equipped with a theft alarm signal device, so arranged that it cannot be used by the driver as an ordinary warning signal.

(4) Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred (500) feet and of a type approved by the director, but the siren shall not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which the latter events the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of the approach. [1953, ch. 273, § 151, p. 478; am. and redesign. 1988, ch. 265, § 268, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 268 of S.L. formerly compiled as § 49-834 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Duty in overtaking and passing.

Failure to sound horn.

"Reasonably necessary".

Duty in Overtaking and Passing.

A motorist overtaking and passing a bicyclist was under duty to give an audible warning when reasonably necessary. *Kelley v. Bruch*, 91 Idaho 50, 415 P.2d 693 (1966).

This section lays down no blanket mandatory requirement of sounding an audible warning when passing, nor can such a requirement be read into former § 49-710(b) (now § 49-627). *Vincen v. Lazarus*, 93 Idaho 145, 456 P.2d 789 (1969).

Failure to Sound Horn.

Even though the act of the pickup truck driver in moving to the right shoulder of the highway might have been legitimately considered as an invitation to pass, the act of the

truck driver attempting to pass the pickup truck and in failing to sound his horn was concurrent with negligence of pickup driver in failing to properly maneuver for a left hand turn and the negligence of each was a contributing proximate cause of plaintiff's injuries sustained when plaintiff's car was hit by truck. *Woodman v. Knight*, 85 Idaho 453, 380 P.2d 222 (1963).

"Reasonably Necessary".

Whether or not sounding of horn was "reasonably necessary" is peculiarly dependent upon all the factual circumstances of the accident. *Vincen v. Lazarus*, 93 Idaho 145, 456 P.2d 789 (1969).

49-957, 49-958. [Reserved.]

49-959. Air-conditioning equipment. — (1) Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable at or below one thousand degrees (1000°) Fahrenheit.

(2) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any air-conditioning equipment unless it complies with the requirements of this section.

(3) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless the equipment complies with the requirements of this section. [I.C., § 49-564.42.1, as added by 1955, ch. 84, § 31, p. 156; am. 1974, ch. 27, § 136, p. 811; am. and redesign. 1988, ch. 265, § 269, p. 549; am. 1997, ch. 392, § 1, p. 1249.]

STATUTORY NOTES

Cross References. — Air conditioning equipment, defined, § 49-102(7).

Safety requirements, regulations and specifications for air conditioning equipment, adoption by director, § 49-901.

Compiler's Notes. — This section was formerly compiled as § 49-844 and was amended and redesignated by § 269 of S.L. 1988, ch. 265 to become this section.

49-960, 49-961. [Reserved.]

49-962. Footrests on motorcycles and motor driven cycles. — It shall be unlawful for the operator of any motorcycle or motor driven cycle to carry a passenger on the vehicle unless it is equipped with footrests designed exclusively for the use of a passenger on the vehicle. [I.C., § 49-849, as added by 1971, ch. 105, § 1, p. 226; am. and redesign. 1988, ch. 265, § 270, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-849 and was amended and redesignated by § 270 of S.L. 1988, ch. 265 to become this section.

49-963, 49-964. [Reserved.]

49-965. Modification of vehicle to reduce road clearance beyond certain limits unlawful. — It shall be unlawful to operate any passenger motor vehicle which has been modified from the original design so that any portion of the vehicle other than the wheels has less clearance from the surface of a level highway than the clearance between the highway and the lowermost portion of any rim of any wheel in contact with the highway. [1961, ch. 83, § 1, p. 112; am. and redesignig. 1988, ch. 265, § 271, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-847 and was amended and redesignated by § 271 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-966. Motor vehicle bumper height requirements. — (1) With the exception of motor vehicles registered pursuant to section 49-406, 49-406A, 49-407 or 49-408, Idaho Code, or motor vehicles where the original or predominant body configuration of the motor vehicle, provided by a recognized manufacturer, did not include a front or rear bumper or bumpers for vehicles meeting the original specifications of a recognized manufacturer, a motor vehicle shall be equipped with a bumper on both the front and rear of the vehicle.

(2) Bumpers, unless specifically exempt in subsection (1) of this section, shall be at least four and one-half (4 1/2) inches in vertical height centered on the vehicle's centerline by bolting or welding to the vehicle frame as originally installed by the vehicle manufacturer. Bumpers shall be horizontal load bearing and attach to the vehicle to effectively transfer energy when impacted and shall extend in width to the originally manufactured tread width for the vehicle.

(3) The maximum bumper heights for a vehicle shall be determined by vehicle class and the vehicle's gross vehicle weight rating (GVWR). Maximum bumper height is the vertical distance between the ground and the highest point on the bottom of the bumper and shall be measured when the vehicle is laden on a level surface with the vehicle's tires inflated to the manufacturer's recommended pressure. For vehicles exempted from the bumper requirements for reasons stated in subsection (1) of this section, a maximum frame elevation measurement shall be made to the bottom of the frame rail. Maximum heights are as follows:

Vehicle Class	Maximum Height	
	Front	Rear
Passenger Cars	22 inches	22 inches
Trucks and MPVs		
4,500 or less lbs. GVWR	24 inches	26 inches
4,501 to 7,500 lbs. GVWR	27 inches	29 inches
7,501 to 10,000 lbs. GVWR	28 inches	30 inches
Four-wheel drive or dual wheel		
with a 10,000 or less lbs. GVWR	30 inches	31 inches

(4) Vehicles which do not meet the requirements of this section on July 1, 1997, must be brought into compliance by July 1, 1998. [I.C., § 49-966, as added by 1997, ch. 355, § 2, p. 1047.]

49-967. Air bags and air bag systems — Disclosure if inoperable.

— (1) It shall be unlawful for any person to sell or otherwise transfer ownership of a vehicle without giving prior written notice to the purchaser or transferee if the person knows or should reasonably know that any air bag or the air bag system is inoperable.

(2) The provisions of this section shall apply only to vehicles originally equipped with factory-installed air bags or an air bag system.

(3) The provisions of this section shall not apply to a vehicle in which a deployed air bag is visible in its deployed condition or to a vehicle from which an air bag has been cut or torn away and that fact is plainly visible. [I.C., § 49-967, as added by 2002, ch. 141, § 1, p. 393.]

CHAPTER 10

WEIGHT, SPEED AND TIRE REGULATIONS

SECTION.

- 49-1001. Allowable gross loads.
- 49-1002. Allowable load per inch width of tire.
- 49-1003. Speed limits for vehicles regulated according to weight and tire equipment.
- 49-1004. Permits for overweight or oversize loads — Special pilot project routes and annual permits.
- 49-1005. Special regulations and notice.
- 49-1006. Responsibility for damage to highway or bridge.
- 49-1007. Limiting liability of authorities.
- 49-1008. Granting permission for transport-

SECTION.

- tation of loads of logs, poles, piling and material from mines which has not been finally processed.
- 49-1009. Contract for building and maintaining roads.
- 49-1010. Size of vehicles and loads.
- 49-1011. Exception to weight and size limitations.
- 49-1012. Temporary movement of harvesting machinery after darkness.
- 49-1013. Penalties for violations.
- 49-1014 — 49-1017. [Amended and Redesignated.]

49-1001. Allowable gross loads. — The gross load imposed on the highway by any vehicle or combination of vehicles shall not exceed the limits in this section. The maximum single axle gross weight shall be twenty thousand (20,000) pounds, the maximum single wheel gross weight shall be ten thousand (10,000) pounds and the maximum gross vehicle or combination weight shall be one hundred five thousand five hundred (105,500) pounds, provided that maximum gross vehicle or combination weight on United States federal interstate and defense highways of this state shall not exceed eighty thousand (80,000) pounds, except as permitted under the provisions of section 49-1004, Idaho Code.

(1) The total gross weight imposed on the highway by any group of consecutive axles shall be determined by the following formula:

$$W=500((LN/N-1)+12N+36)$$

Where W is the maximum weight in pounds (to the nearest 500 pounds) carried on any group of two (2) or more consecutive axles. L is the distance

in feet between the extremes of any group of two (2) or more consecutive axles, and N is the number of axles under consideration.

The formula is modified as illustrated in the following table:

Distance in feet
between the
extremes of any
group of 2 or
more consecutive
axles

Maximum load in pounds carried on any group of
2 or more consecutive axles

2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
34,000											
34,000											
34,000											
34,000											
34,000											
38,000	42,000										
39,000	42,500										
40,000	43,500										
	44,000										
	45,000	50,000									
	45,500	50,500									
	46,500	51,500									
	47,000	52,000									
	48,000	52,500	58,000								
	48,500	53,500	58,500								
	49,500	54,000	59,000								
	50,000	54,500	60,000								
	51,000	55,500	60,500	66,000							
	51,500	56,000	61,000	66,500							
	52,500	56,500	61,500	67,000							
	53,000	57,500	62,500	68,000							
	54,000	58,000	63,000	68,500	74,000						
	54,500	58,500	63,500	69,000	74,500						
	55,500	59,500	64,000	69,500	75,000						
	56,000	60,000	65,000	70,000	75,500						
	57,000	60,500	65,500	71,000	76,500	82,000					
	57,500	61,500	66,000	71,500	77,000	82,500					
	58,500	62,000	66,500	72,000	77,500	83,000					
	59,000	62,500	67,500	72,500	78,000	83,500					
	60,000	63,500	68,000	73,000	78,500	84,500	90,000				
		64,000	68,500	74,000	79,000	85,000	90,500				
		64,500	69,000	74,500	80,000	85,500	91,000				
		65,500	70,000	75,000	80,500	86,000	91,500				
		66,000	70,500	75,500	81,000	86,500	92,000	98,000			

WHEN NO ALLOWABLE WEIGHT IS
LISTED FOR ANY AXLE SPACING,
APPLY THE ALLOWABLE WEIGHT AS
LISTED IN THE FIRST COLUMN TO
THE LEFT

Distance in feet
between the
extremes of any
group of 2 or
more consecutive
axles

Maximum load in pounds carried on any group of
2 or more consecutive axles

	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
37			66,500	71,000	76,000	81,500	87,000	93,000	98,500			
38			67,500	71,500	77,000	82,000	87,500	93,500	99,000			
39			68,000	72,500	77,500	82,500	88,500	94,000	99,500			
40			68,500	73,000	78,000	83,500	89,000	94,500	100,000	106,000		
41			69,500	73,500	78,500	84,000	89,500	95,000	100,500	106,500		
42			70,000	74,000	79,000	84,500	90,000	95,500	101,000	107,000		
43			70,500	75,000	80,000	85,000	90,500	96,000	102,000	107,500		
44			71,500	75,500	80,500	85,500	91,000	96,500	102,500	108,000	114,000	
45			72,000	76,000	81,000	86,000	91,500	97,500	103,000	108,500	114,500	
46			72,500	76,500	81,500	87,000	92,500	98,000	103,500	109,000	115,000	
47			73,500	77,500	82,000	87,500	93,000	98,500	104,000	110,000	115,500	
48			74,000	78,000	83,000	88,000	93,500	99,000	104,500	110,500	116,000	122,000
49			74,500	78,500	83,500	88,500	94,000	99,500	105,000	111,000	116,500	122,500
50			75,500	79,000	84,000	89,000	94,500	100,000	105,500	111,500	117,000	123,000
51			76,000	80,000	84,500	89,500	95,000	100,500	106,000	112,000	118,000	123,500
52			76,500	80,500	85,000	90,500	95,500	101,000	107,000	112,500	118,500	124,000
53			77,500	81,000	86,000	91,000	96,500	102,000	107,500	113,000	119,000	124,500
54			78,000	81,500	86,500	91,500	97,000	102,500	108,000	113,500	119,500	125,000
55			78,500	82,500	87,000	92,000	97,500	103,000	108,500	114,000	120,000	125,500
56			79,500	83,000	87,500	92,500	98,000	103,500	109,000	115,000	120,500	126,000
57			80,000	83,500	88,000	93,000	98,500	104,000	109,500	115,500	121,000	127,000
58				84,000	89,000	94,000	99,000	104,500	110,000	116,000	121,500	127,500
59				85,000	89,500	94,500	99,500	105,000	110,500	116,500	122,000	128,000
60				85,500	90,000	95,000	100,500	105,500	111,000	117,000	122,500	128,500
61				86,000	90,500	95,500	101,000	106,000	112,000	117,500	123,000	129,000
62				87,000	91,000	96,000	101,500	107,000	112,500	118,000	124,000	
63				87,500	92,000	96,500	102,000	107,500	113,000	118,500	124,500	
64				88,000	92,500	97,500	102,500	108,000	113,500	119,000	125,000	
65				88,500	93,000	98,000	103,000	108,500	114,000	119,500	125,500	
66				89,500	93,500	98,500	103,500	109,000	114,500	120,000	126,000	
67				90,000	94,000	99,000	104,500	109,500	115,000	121,000	126,500	
68				90,500	95,000	99,500	105,000	110,000	115,500	121,500	127,000	
69				91,000	95,500	100,000	105,500	111,000	116,000	122,000	127,500	
70				92,000	96,000	101,000	106,000	111,500	117,000	122,500	128,000	

Distance in feet
between the
extremes of any
group of 2 or
more consecutive
axes

Maximum load in pounds carried on any group of
2 or more consecutive axes

	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	8 axles	9 axles	10 axles	11 axles	12 axles	13 axles
71				92,500	96,500	101,500	106,500	112,000	117,500	123,000	128,500	
72				93,000	97,000	102,000	107,000	112,500	118,000	123,500	129,000	
73				93,500	98,000	102,500	107,500	113,000	118,500	124,000		
74				94,500	98,500	103,000	108,000	113,500	119,000	124,500		
75				95,000	99,000	103,500	109,000	114,000	119,500	125,000		
76				95,500	99,500	104,500	109,500	114,500	120,000	126,000		
77				96,000	100,000	105,000	110,000	115,000	120,500	126,500		
78				97,000	101,000	105,500	110,500	116,000	121,000	127,000		
79				97,500	101,500	106,000	111,000	116,500	122,000	127,500		
80				98,000	102,000	106,500	111,500	117,000	122,500	128,000		
81				98,500	102,500	107,000	112,000	117,500	123,000	128,500		
82				99,000	103,000	108,000	113,000	118,000	123,500	129,000		
83				100,000	104,000	108,500	113,500	118,500	124,000			
84					104,500	109,000	114,000	119,000	124,500			
85					105,000	109,500	114,500	120,000	125,000			
86					105,500	110,000	115,000	120,500	125,500			
87					106,000	111,000	115,500	121,000	126,000			
88					107,000	111,500	116,000	121,500	127,000			
89					107,500	112,000	117,000	122,000	127,500			
90					108,000	112,500	117,500	122,500	128,000			
91					108,500	113,000	118,000	123,000	128,500			
92					109,000	113,500	118,500	123,500	129,000			
93					110,000	114,000	119,000	124,000				
94					110,500	115,000	119,500	125,000				
95					111,000	115,500	120,000	125,500				
96					111,500	116,000	121,000	126,000				
97					112,000	116,500	121,500	126,500				
98					113,000	117,000	122,000	127,000				
99					113,500	118,000	122,500	127,500				
100					114,000	118,500	123,000	128,000				
101					114,500	119,000	123,500	129,000				

(a) A public highway agency may limit the application of the weights authorized in this section as to certain highways within its jurisdiction which it determines have limited structural capacity of pavements, bridges, or other appurtenances. In designating such highways, it may specify a minimum wheelbase for combinations to be operated thereon. It may also designate specific highways or portions on which operation of a combination of vehicles with seven (7) through thirteen (13) axles will be subject to specified lesser allowable gross weights.

(b) Notwithstanding the figures shown in the table in this subsection (1), two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more.

(c) Vehicles may operate with reducible loads at gross weights greater than one hundred five thousand five hundred (105,500) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds on noninterstate highways in accordance with the provisions of section 49-1004, Idaho Code, provided such vehicles are in compliance with the weight formula specified in this subsection (1) of this section, have registered and have paid the registration fees as specified in section 49-434, Idaho Code, and are in compliance with the length restrictions set forth in section 49-1010(7), Idaho Code.

(2) The weight limitations set forth in the table in subsection (1) of this section shall not apply to any vehicle, or combination of vehicles when a greater allowed weight in pounds would be permitted such vehicles under the table provided in this subsection, except that with regard to transportation on the United States federal interstate and defense highways of this state, the following table of allowable weights shall apply only to vehicles engaged in the transportation of logs, pulp wood, stull, rough lumber, poles or piling; or to any such vehicle engaged in the transportation of ores, concentrates, sand and gravel and aggregates thereof, in bulk; or to any such vehicle engaged in the transportation of agricultural commodities, including livestock:

Distance in feet between
the extremes of any group
of 2 or more consecutive

axles

3 through 12

13

14

15

16

17

18

19

20

21

22

23

24

25

Allowed Load in Pounds

Vehicles with
Three or Four

axles

Vehicles with
Five or more

axles

37,800

37,800

56,470

56,470

57,940

57,940

59,400

59,400

60,610

60,610

61,820

61,820

63,140

63,140

64,350

64,350

65,450

65,450

66,000

66,330

66,000

67,250

66,000

67,880

66,000

68,510

66,000

69,150

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four	Vehicles with Five or more
26	66,000	69,770
27	66,000	70,400
28	66,000	70,950
29	66,000	71,500
30	66,000	72,050
31		72,600
32		73,150
33		73,700
34		74,250
35		74,800
36		75,350
37		75,900
38		76,450
39		77,000
40		77,550
41		78,100
42		78,650
43 and over		79,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed seventy-nine thousand (79,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(3) In determining the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles under subsection (1) or (2) or (9) of this section, the total gross weight of the vehicle or combination of vehicles or the gross weight of any two (2) or more consecutive axles shall be the sum of the axle weights.

For the purposes of this chapter the gross weight of a vehicle or the gross weight of any two (2) or more consecutive axles may be determined by accumulatively adding the separate weights of individual axles and tandem axles or groups of axles to determine gross weight. The results of any weighing at a temporary or permanent port of entry and the records relating to the calibration and accuracy of any scale at a temporary or permanent port of entry shall be admissible in any proceeding in this state. In order to prove a violation of the provisions of this section the state must show that:

- The sum of the axle weights exceeds what is allowable under the provisions of subsection (1) or (2) or (9) of this section;
- The scale involved in the weighing was at the time of weighing calibrated in conformity with and met the accuracy requirements of the standards for the enforcement of traffic and highway laws as set forth in the latest edition of handbook 44 of the national institute of standards and technology;
- Weights of individual axles or axles within a commonly suspended group of axles supported by a mechanical system designed to distribute equal wheel loads to individual axles in the group were utilized only to determine gross weights of that group of axles, and that any further evaluation of gross weights of combinations of axles considered only the

accumulated gross weight of each such commonly suspended group of axles.

(4) In applying the weight limitations imposed in this section, a vehicle or combination of vehicles must comply exclusively with the weight limitations in either subsection (1) or (2) or (9) of this section.

(5) In applying the weight limitations imposed in this section, the distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half ($1/2$) foot the next larger whole number shall be used.

(6) The limitations imposed in this section are in addition and supplemental to all other laws imposing limitations upon the size and weight of vehicles. Further, single axles within groups of axles are subject to the provisions and limitations of this chapter. Single axles within groups of axles may be weighed and evaluated separately.

(7) Notwithstanding the other provisions of this chapter, no vehicle, motor vehicle, trailer and/or semitrailer, or combination thereof, may be operated on the public highways of the state under loads which would result in the withholding of funds by operation of controlling federal law as provided in the Federal Aid Highway Act of 1956, as amended.

(8) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when: the weight of a single axle exceeds the maximum limitations set forth herein by two thousand (2,000) pounds or more; the weight of a combination of axles, or gross vehicle weight exceeds the maximum allowable weight as set forth herein by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with applicable weight limitations contained within this subsection at the place of weighing prior to continuing, except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing, and except those vehicles which do not exceed fifteen percent (15%) over maximum axle and axle group weights set forth in this section. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars (\$50.00) and shall be on a form prescribed by the board or other proper authorities, and shall not be construed as contributing to a reduction in the penalties prescribed in section 49-1013, Idaho Code.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section.

(9) For vehicles on all highways except the United States federal interstate and defense highways of this state, the following table shall apply:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Allowed Load in Pounds	
	Vehicles with Three or Four	Vehicles with Five or more
3 through 12	axles	axles
13	37,800	37,800
14	56,470	56,470
15	57,940	57,940
16	59,400	59,400
17	60,610	60,610
18	61,820	61,820
19	63,140	63,140
20	64,350	64,350
21	65,450	65,450
22	66,000	66,330
23	66,000	67,250
24	66,000	67,880
25	66,000	68,510
26	66,000	69,150
27	66,000	69,770
28	66,000	70,400
29	66,000	70,950
30	66,000	71,500
31	66,000	72,050
32		72,600
33		73,150
34		73,700
35		74,250
36		74,800
37		75,350
38		75,900
39		76,450
40		77,000
41		77,550
42		78,100
43 and over		78,650
		80,000

The weight allowances provided in this subsection do not apply if the total gross weight of a vehicle or combination of vehicles is intended to exceed eighty thousand (80,000) pounds as declared by the operator. When the provisions of this subsection are applicable to a vehicle or combination of vehicles, it shall be a violation of the provisions of this subsection if that vehicle or combination of vehicles exceeds the weights specified in this table.

(10) When owned by or under contract to or under authority of a city, county, or state agency, refuse/sanitation trucks transporting refuse may be operated on public highways in accordance with the weights allowed in subsection (9) of this section, except that such trucks equipped with single rear axles are allowed twenty-four thousand (24,000) pounds on that single rear axle when specifically authorized by the public highway agency governing the highways over which the refuse/sanitation truck is operating and provided the following conditions are met:

(a) The weight allowances provided for in this subsection shall not apply to the United States federal interstate and defense highways of the state; and

(b) The owner or operator has paid an annual operating fee for a permit, not to exceed fifty dollars (\$50.00) per refuse/sanitation truck to each public agency governing the public highways over which the refuse/sanitation truck operates. The permit shall be carried in the refuse/sanitation truck. The permit fee may be waived by a public agency for refuse/sanitation trucks operated over public highways under that agency's jurisdiction.

(11) Variable load suspension axles shall meet the following criteria in order to be included in the computation of gross vehicle or axle weight limits for vehicles under the provisions of this section:

(a) The deployment control switch for such axles may be located inside of the driver's compartment but the pressure regulator valve for the operation of pressure on the pavement shall be located outside of and inaccessible to the driver's compartment.

(b) The manufacturer's gross axle weight rating of each such axle must not be less than the actual loading of the axle.

(c) All variable load suspension axles shall be designed to be self-steering; provided however, variable load suspension axles that are within sixty (60) inches of a drive axle or are within sixty (60) inches of a trailer axle, need not be self-steering.

(d) The manufacturer's gross tire weight rating of each tire must not be less than the actual loading of the tire.

(e) Variable load suspension axles must be fully deployed or fully raised. For applicable definitions, see sections 49-117 and 49-123, Idaho Code.

(12) Any person who operates a motor vehicle with a variable load suspension axle in violation of the provisions of this section shall be subject to the penalties provided in section 49-1013, Idaho Code. [I.C., § 49-901A, as added by 1972, ch. 328, § 2, p. 821; am. 1974, ch. 169, § 1, p. 1426; am. 1975, ch. 167, § 1, p. 453; redesign. and am. 1986, ch. 172, § 2, p. 458; am. and redesign. 1988, ch. 265, § 272, p. 549; am. 1991, ch. 226, § 1, p. 538; am. 1993, ch. 273, § 4, p. 913; am. 1993, ch. 334, § 3, p. 1234; am. 1993, ch. 345, § 1, p. 1283; am. 1993, ch. 371, § 1, p. 1333; am. 1993, ch. 376, § 2, p. 1377; am. 1994, ch. 321, § 4, p. 1025; am. 1995, ch. 72, § 1, p. 183; am. 1995, ch. 122, § 3, p. 526; am. 1998, ch. 158, § 2, p. 534; am. 1998, ch. 189, § 1, p. 684; am. 2000, ch. 418, § 15, p. 1331; am. 2007, ch. 65, § 1, p. 159.]

STATUTORY NOTES

Cross References. — Duty to stop at inspection station for inspection grading or weighing, § 40-511, penalties, § 40-512.

Maximum load on bridges, county commissioners may limit, signs specifying, § 40-1206.

Milk and milk products, construction of vehicles for transportation of, § 37-707.

Prior Laws. — Former § 49-1001, which comprised 1953, ch. 273, § 39, p. 478; am. 1974, ch. 27, § 138, p. 811, was repealed by S.L. 1987, ch. 208, § 2.

Amendments. — This section was amended by two 1995 acts — ch. 72, § 1, and

ch. 122, § 3, both effective July 1, 1995 — which do not appear to conflict and have been compiled together.

The 1995 amendment, by ch. 72, § 1, in the table in subdivision (1) following "8+" substituted "38,000" for "34,000" and in subsections (2) and (9), in the sentences immediately following the tables, substituted "is intended to exceed" for "exceeds" and inserted "as declared by the operator" following "pounds."

The 1995 amendment, by ch. 122, § 3, in subdivision (11)(a) inserted "valve" following "regulator"; in subdivision (11)(d) in the second sentence inserted "valve" following "reg-

ulator", added "in accordance with rules or ordinances established by the board or other public road jurisdiction." at the end of the second sentence and added the last sentence; and in subsection (12) inserted "load" following "variable."

This section was amended by two 1998 acts — ch. 158, § 2 and ch. 189, § 1, both effective July 1, 1998 — which do not conflict and have been compiled together.

The 1998 amendment, by ch. 158, § 2, added load amounts in the 6, 7, and 8 axles columns, added the 10, 11, 12, and 13 axles columns, substituted "through thirteen (13) axles" for "eight (8) or nine (9) axle vehicles" in subdivision (1)(a) and added subdivision (1)(c).

The 1998 amendment, by ch. 189, § 1, in subdivision (11)(b), inserted "manufacturer's," and deleted from the end of the subdivision "and shall not be less than nine thousand (9,000) pounds," added present subdivision (11)(d), redesignated former subdivision (11)(d) as subdivision (11)(e), and in subdivision (11)(e), deleted the former second sentence which read: "The pressure regulator valve which governs the load distribution to the variable load suspension axle(s) shall be set and sealed by the owner of the vehicle(s) in accordance with rules or ordinances established by the board or other public road jurisdiction."

The 2007 amendment, by ch. 65, deleted the following from the end of subsection (6): "or single axles may be prequalified in accordance with rules or ordinances established by the board or other public road jurisdiction, if any of the following conditions exist regarding the single axle within a group of axles:

"(a) A suspension system common to all axles in the group of axles does not exist.

"(b) One (1) or more axles in the group of axles is equipped with separate variable load suspension controls to regulate the weight carried by individual axles.

"(c) One (1) or more axles in a group of axles is equipped with more or fewer tires than other axles in the group of axles.

"(d) All tires in the group of axles are not the same size as determined by the manufacturer's sidewall rating";

and in subsection (11)(c), deleted "mounted on a vehicle after January 1, 1990" preceding "shall be designed" and "in a manner that will guide or direct the variable load suspension mounted wheels through a turning movement

without undue tire scrubbing or pavement scuffing" following "to be self-steering," and added the proviso at the end.

Legislative Intent. — Section 4 of S.L. 1998, ch. 158 provides "It is the intent of the legislature that the Idaho Transportation Department shall report annually to the legislature on the results of their monitoring and evaluation of all important impacts, including impacts to safety, bridges and pavement on all the state pilot project routes. The first report shall be submitted to the First Regular Session of the Fifty-fifth Idaho Legislature which convenes in January of 1999. The pilot project program shall sunset in three years following implementation unless otherwise extended by the legislature."

Federal References. — The Federal Aid Highway Act of 1956 referred to in subdivision (7) of this section is compiled as 23 U.S.C. § 101 et seq.

Compiler's Notes. — This section was formerly compiled as § 49-901 and was amended and redesignated by § 272 of S.L. 1988, ch. 265 to become this section.

Handbook 44 of the national institute of standards and technology is updated annually. See <http://ts.nrst.gov/weightandmeasures/pubs.cfm#Handbooks>.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 6 of S.L. 1991, ch. 226 provided that the act should take effect on and after January 1, 1992.

Section 2 of S.L. 1993, ch. 371 declared an emergency. Approved April 1, 1993.

Section 3 of S.L. 1993, ch. 376 declared an emergency. Approved April 1, 1993.

Section 20 of S.L. 2000, ch. 418, provides: "Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later." The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 15 of ch. 418 became effective October 1, 2000.

JUDICIAL DECISIONS

Double Jeopardy.

Defendant's three separate fines for his three weight violations did not violate double jeopardy, because defendant's registered

gross weight violation was a separate offense from each of defendant's two axle weight violations under the *Blockburger* test, and the Idaho Legislature clearly authorized cumula-

tive punishment for defendant's two axle weight violations; a registered gross weight violation required the State to prove that defendant had exceeded the weight at which he registered his tractor-trailer, and the elements to prove defendant exceeded the allow-

able weight limits for his tandem drive axle and his four axle bridge did not require the State to prove the defendant's registered weight. *State v. Bryan*, — Idaho —, 181 P.3d 538 (Ct. App. 2008).

DECISIONS UNDER PRIOR LAW

Weight Violations.

Driving with load of 51,600 pounds on a vehicle which measured 19 feet 9 inches between the front axle and rearmost axle on a

highway and a bridge violated this section. *State ex rel. McKinney v. Richardson*, 76 Idaho 9, 277 P.2d 272 (1954).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 208 et seq.

A.L.R. — Violation of regulation governing size or weight of motor vehicles, or combinations of vehicles and loads, on the highway as basis of liability for personal injury, death, or damage to private property. 21 A.L.R.3d 989.

Construction and operation of statutes or

regulations restricting the weight of motor vehicles or their loads. 45 A.L.R.3d 503.

Liability for damage to highway or bridge caused by size or weight of motor vehicle or load. 53 A.L.R.3d 1035; 31 A.L.R.5th 171.

Measure and elements of damages for injury to bridge. 31 A.L.R.5th 171.

49-1002. Allowable load per inch width of tire. — (1) The maximum allowable load for any vehicle tire operated on any public highway shall not exceed six hundred (600) pounds per inch width of tire and shall not exceed the manufacturer's load rating, whichever is less. The width of a tire shall be determined by the manufacturer's description marked on the sidewall of the tire. Tires on vehicles manufactured prior to July 1, 1987, may exceed the six hundred (600) pounds per inch width of tire limit subject to a maximum of eight hundred (800) pounds per inch width of tire. This section shall not apply to nonreducible overweight and/or oversize vehicles and/or loads as authorized under section 49-1004, Idaho Code.

(2) Except as provided herein, no vehicle or combination of vehicles may proceed past the place of weighing at temporary or permanent ports of entry or checking stations when the weight carried on a single tire, as determined by dividing the weight carried on an axle or group of axles by the number of wheels on the axle or group of axles, exceeds on a single axle the allowable weight above by two thousand (2,000) pounds or more or the weight of a combination of axles exceeds the allowable weight above by seven percent (7%) or more. Vehicles or combinations of vehicles which exceed the weight limitations set forth herein shall be required to be brought into compliance with the applicable weight per inch width of tire contained within this subsection prior to continuing except those vehicles or combinations of vehicles which are transporting loads which, in the determination of the board or other proper authorities in charge of or having jurisdiction over a highway, are deemed unsafe or impractical to bring into compliance at the place of weighing. Vehicles or combinations of vehicles transporting loads in this latter category shall obtain a travel authorization to the nearest place of safe unloading, load adjustment or other means of legalization.

(a) Neither the state of Idaho or its employees, nor any authority and its employees in charge of or having jurisdiction over a highway, shall be held liable for personal injury or property damage resulting from the requirements of section 49-1001(8), Idaho Code.

(b) The fee for a travel authorization as set forth above shall be fifty dollars (\$50.00) and shall be on a form prescribed by the board or other proper authorities.

(c) The board or other proper authorities in charge of or having jurisdiction over a highway shall adopt and enforce administrative rules as may be necessary to carry out the provisions of this section. [IC § 49-902, as added by 1986, ch. 80, § 2, p. 238; am. and redesign. 1988, ch. 265, § 273, p. 549; am. 1991, ch. 226, § 2, p. 538; am. 2006, ch. 351, § 1, p. 1070; am. 2007, ch. 40, § 1, p. 100.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 351, in subsection (1), inserted “and shall not exceed the manufacturer’s load rating, whichever is less” to the first sentence, inserted the second sentence and added the fifth sentence.

The 2007 amendment, by ch. 40, in subsection (1), deleted the former second sentence, which read: “Single tires are prohibited on single axles or within groups of axles except for steering axles, self-steering variable load suspension axles or when equipped with wide base tires fifteen (15) inches wide or greater.”

Compiler’s Notes. — This section was

formerly compiled as § 49-902 and was amended and redesignated by § 273 of S.L. 1988, ch. 265 to become this section.

Former § 49-1002 was amended and redesignated as § 49-1301 by § 322 of S.L. 1988, ch. 265.

The reference at the end of paragraph (2)(a) was incorrectly added to this section by S.L. 1991, Chapter 226. Seemingly, from its context, the reference should be to section 49-1002(2), Idaho Code.

Effective Dates. — Section 6 of S.L. 1991, ch. 226 provided that the act should take effect on and after January 1, 1992.

49-1003. Speed limits for vehicles regulated according to weight and tire equipment. — It shall be unlawful to operate any vehicle equipped with other than pneumatic tires on a highway at a rate of speed in excess of twenty (20) miles per hour for vehicles having a gross weight of not more than ten thousand (10,000) pounds, and twelve (12) miles per hour for vehicles having a gross weight of more than ten thousand (10,000) pounds. [1929, ch. 156, § 3, p. 281; I.C.A., § 48-603; am. 1937, ch. 144, § 3, p. 236; am. 1967, ch. 30, p. 54; am. and redesign. 1988, ch. 265, § 274, p. 549.]

STATUTORY NOTES

Compiler’s Notes. — This section was formerly compiled as § 49-903 and was amended and redesignated by § 274 of S.L. 1988, ch. 265 to become this section.

Former § 49-1003 was amended and redesignated as § 49-1302 by § 323 of S.L. 1988, ch. 265.

49-1004. Permits for overweight or oversize loads — Special pilot project routes and annual permits. — (1) Upon application in writing to the board or other proper authorities in charge of, or having jurisdiction over a highway, the board or authorities may in their discretion issue a special permit to the owner or operator of any vehicle allowing vehicles or loads having a greater weight or size than permitted by law to be moved or carried

over and on the highways and bridges.

(a) Special permits shall be in writing and may limit the time of use and operation over the particular highways and bridges which may be traversed and may contain any special conditions and require any undertaking or other security as the board or other proper authority shall deem to be necessary to protect the highways and bridges from injury, or provide indemnity for any injury to highways and bridges or to persons or property resulting from such operation.

(b) The owner or operator of an overweight or oversize vehicle shall obtain a permit, or shall establish intent to obtain a permit by contacting a permit office and receiving a permit number before moving the vehicle on the highways.

(c) All special permits or evidence of intent to obtain a permit, shall be carried in the vehicles to which they refer and shall upon demand be delivered for inspection to any peace officer, authorized agent of the board or any officer or employee charged with the care or protection of the highways.

(2) Nonreducible vehicles or combinations of vehicles hauling nonreducible loads at weights in excess of those set forth in section 49-1001, Idaho Code, shall pay fees as set forth in this subsection (2). Such fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight.

Number of axles	Column 1	Column 2
	Gross weight of vehicle and load in pounds	Gross weight of vehicle and load in pounds
2	40,001	-
3	54,001	-
4	68,001	-
5	80,001	131,001
6	97,001	148,001
7	114,001	165,001

(a) To determine the maximum allowable permit fee for vehicles with more than seven (7) axles, the table can be extended by adding seventeen thousand (17,000) pounds to the last listed weight in both columns 1 and 2 for each added axle.

(b) Permit fees for column 1 shall start at four cents (4¢) per mile and increase four cents (4¢) per mile for each additional two thousand (2,000) pound increment up to the weight indicated in column 2. Permit fees for column 2 shall start at one dollar and two cents (\$1.02) per mile and increase seven cents (7¢) per mile for each additional two thousand (2,000) pound increment.

(c) Vehicles operating at weights less than the starting weights per axle configuration listed in column 1 shall be charged four cents (4¢) per mile.

(d) For vehicles operating with axles wider than eight (8) feet six (6) inches or axles with more than four (4) tires per axle, the fee may be reduced by the board or other proper authority having jurisdiction over a highway.

(3) It shall be unlawful for any person to violate, or to cause or permit to be violated, the limitations or conditions of special permits and any violation

shall be deemed for all purposes to be a violation of the provisions of this chapter.

(4) An annual special pilot project route permit authorizing travel on pilot project routes shall be issued by the board or may, in its discretion, be issued by a local public highway agency for operation of vehicles with a legal maximum gross weight of at least one hundred five thousand five hundred one (105,501) pounds but not exceeding one hundred twenty-nine thousand (129,000) pounds. Such pilot project routes on nonstate and noninterstate highways shall be determined by the local highway agency for those roads under its jurisdiction. No local public highway agency shall approve a pilot project route which provides a thoroughfare for interstate carriers to pass through the state. State pilot project routes designated by the legislature and identified on a map entitled "Designated Pilot Project Routes" are:

- (a) US-20 Montana border to its junction with SH-33; SH-33 to its junction with US-20; US-20 to its junction with US-93; US-93 to its junction with SH-25; SH-25 to its junction with SH-50; SH-50 to its junction with US-30; US-30 to its junction with SH-74; SH-74 to its junction with US-93; US-93 to the Nevada border.
- (b) US-91 from its junction with SH-34 to the Utah border.
- (c) US-30 from its junction with I-15 to the Wyoming border.
- (d) US-95 south from milepost 66 (Fruitland) to its junction with SH-55.
- (e) SH-19 from its junction with US-95 (Wilder) to its junction with I-84B (Caldwell).
- (f) SH-78 from its junction with SH-55 (Marsing) to its junction with SH-51; SH-51 to its junction with SH-78; SH-78 to its junction with I-84B (Hammett).
- (g) SH-67 from its junction with SH-51 (Mountain Home) to its junction with SH-78 (Grandview).
- (h) SH-55 from intersection with Farmway Road to junction with US-95.
- (i) SH-25 from its junction with SH-24 to its junction with SH-27 (Paul).
- (j) SH-25 from its junction with US-93 to milepost 27 (Hazelton).
- (k) SH-24 from intersection with US-93 to its intersection with SH-25.
- (l) US-20 from its intersection with New Sweden Road to its junction with SH-22/33.
- (m) SH-34 from milepost 78 to the junction with US-91.
- (n) US-26 from its junction with US-91 north to its intersection with Gallatin/West 23rd Street in Idaho Falls.
- (o) US-91 from the intersection with Canyon Road to the junction with US-26.
- (p) SH-22 from its junction with I-15 northbound ramps (Dubois) to its junction with SH-33.
- (q) SH-45 from its junction with SH-78 to its junction with I-84 business loop; I-84 business loop to its junction with exit 35 (Nampa Boulevard/Northside Boulevard).
- (r) SH-87 from Montana border to junction with US-20.
- (s) SH-33 from its junction with SH-31 (Victor) to its junction with SH-33 spur; SH-33 spur to its junction with US-20.
- (t) SH-28 from junction with SH-22 to junction with SH-33.

- (u) SH-38 from milepost 0.689 to milepost 1.318 at Malad.
- (v) SH-27 from its junction with SH-25 (Paul) to its junction with I-84B (Burley); I-84B to its junction with SH-27; SH-27 to milepost 0 (Oakley).
- (w) SH-81 from its junction with SH-77 (Malta) to its junction with US-30 (Burley).
- (x) US-30 from junction with SH-81 at Burley to junction with SH-50 at Kimberly.
- (y) US-93 spur from junction with US-30 to junction with US-93 at Twin Falls.
- (z) US-93 from junction with US-93 spur to junction with US-30 at Twin Falls.
- (aa) US-30 from junction with SH-74 at Twin Falls to junction with I-84 business loop at Bliss.
- (bb) US-26 from its junction with SH-75 (Shoshone) to its junction with I-84 exit 141 westbound ramps (Bliss); I-84 business loop from its junction with I-84 exit 141 westbound ramps to its junction with US-30 (Bliss).
- (cc) SH-46 spur from its junction with SH-46 (Wendell) to its junction with I-84 exit 155 eastbound ramps.
- (dd) SH-46 from its junction with US-20 to its junction with I-84 exit 157 eastbound ramps (Wendell.)
- (ee) US-20 from junction with US-93 at Carey to junction with I-84 business loop at interchange 95; I-84 business loop from interchange 95 to junction with SH-51; SH-51 to junction with SH-67.
- (ff) SH-51 from junction with SH-67 to junction with SH-78.
- (gg) SH-44 from its junction with SH-55 (Eagle) to its junction with I-84 exit 25 eastbound ramps.
- (hh) US-20/26 from its junction with US-95 (Parma) to its junction with I-84 exit 26 westbound ramps.
- (ii) US-20 from junction with US-33 at Sugar City south to junction with US-20 business loop/Holmes Avenue; US-20 business loop/Holmes Avenue south to junction with US-26/Yellowstone; US-26 from intersection with US-20 business loop/Holmes Avenue south to Gallatin.

Additions or deletions to the approved state pilot project routes specified in this subsection (4) shall be made only with the approval of the state legislature.

(5) An annual administrative permit fee for operating on pilot project routes at the weights specified in subsection (4) of this section shall be set by the board for travel on state pilot project routes and by the local public highway agency for travel on routes under its jurisdiction, but not to exceed a maximum of fifty dollars (\$50.00) per vehicle. The annual administrative permit fee shall cover administrative costs. Local public highway agencies are authorized to issue special pilot project permits and such permits shall be in writing. Administrative permit fees for permits issued by a local public highway agency shall be retained by the local public highway agency to cover administrative costs, and administrative permit fees for permits issued by the department shall be retained by the department to cover administrative costs. In addition to the annual administrative permit fee and the appropriate registration fee for weights up to one hundred five

thousand five hundred (105,500) pounds, the appropriate vehicle registration fees for weights over one hundred five thousand five hundred (105,500) pounds shall be calculated and collected in accordance with the fee schedules set forth in section 49-432 or 49-434, Idaho Code. [1929, ch. 156, § 5, p. 281; I.C.A., § 48-605; am. 1974, ch. 12, § 75, p. 61; am. 1978, ch. 179, § 1, p. 409; am. and redesiɡ. 1988, ch. 265, § 275, p. 549; am. 1998, ch. 108, § 2, p. 367; am. 1998, ch. 158, § 3, p. 534; am. 2000, ch. 418, § 16, p. 1331; am. 2003, ch. 315, § 2, p. 859; am. 2005, ch. 63, § 1, p. 220; am. 2007, ch. 257, § 1, p. 763; am. 2007, ch. 258, § 1, p. 766; am. 2008, ch. 156, § 1, p. 447.]

STATUTORY NOTES

Amendments. — This section was amended by two 1998 acts — ch. 108, § 2, effective July 1, 1998 and ch. 158, § 3, effective July 1, 1998 — which do not conflict and were compiled together. However, additions to subsection designations made by the compiler were necessitated because each act added subsections which were different textually but had the same designation. These differences were resolved by § 16 of S.L. 2000, ch. 265.

The 1998 amendment, by ch. 108, § 2, inserted the “(1)” designation at the beginning of the first paragraph, inserted the “(a),” “(b)” and “(c)” designations in the three subsequent paragraphs, added subsection (2), and inserted the “(3)” designation in the last paragraph.

The 1998 amendment, by ch. 158, § 3, inserted the “(1)” designation at the beginning of the first paragraph and added subsections (2) and (3). For the redesignation of these subsections by the compiler, see the first Compiler’s note above.

The 2007 amendment, by ch. 257, substituted “Montana border” for “Ashton” at the beginning of subsection (4)(a); in subsection (4)(n), deleted “US-26 from the intersection with 45th West to the junction with US-91; and” from the beginning and added “in Idaho Falls” at the end; in subsection (4)(q), substituted “Nampa Boulevard” for “SH-55; SH-55 to I-84 interchange no. 35”; and added subsections (4)(r) through (hh).

The 2007 amendment, by ch. 258, amended this section as amended by S.L. 2007, chapter 257 and inserted subsection (4)(ii).

The 2008 amendment, by ch. 156, rewrote subsection (4), clarifying the beginning and end points of the Pilot Project Routes.

Legislative Intent. — Section 3 of S.L.

2003, ch. 315 provides: “It is the intent of the Legislature that the Idaho Transportation Department shall periodically report to the Legislature on the effect of the pilot project program. The Department shall report on the results of its monitoring and evaluation of all important impacts, including impacts to safety, bridges and pavement on all the State Pilot Project Routes designated in subsection (4) of Section 49-1004, Idaho Code. Reports shall be submitted to the Legislature no later than January 30 in the years 2007, 2010 and 2013. The Pilot Project Program shall sunset on and after July 1, 2013, unless otherwise extended or sooner repealed by the Legislature.”

Compiler’s Notes. — This section was formerly compiled as § 49-905 and was amended and redesignated by § 275 of S.L. 1988, ch. 265 to become this section.

Former § 49-1004 was amended and redesignated as § 49-1303 by § 324 of S.L. 1988, ch. 265.

Effective Dates. — Section 20 of S.L. 2000, ch. 418 provides: “Sections 2 through 18 of this act shall be in full force and effect on and after October 1, 2000, contingent upon certification by the Secretary of State that he has received notice from the appropriate court of the Fourth Judicial District that the court has granted final approval of a settlement pursuant to Case No. CV OC 9700724D, American Trucking Association, et al. v. State of Idaho, et al., or on and after the date the Secretary of State so certifies final approval of the settlement, whichever occurs later”. The Secretary of State certified that he received the notice referred to in § 20 of ch. 418 prior to October 1, 2000, and the amendment to this section by § 16 of ch. 418 became effective October 1, 2000.

JUDICIAL DECISIONS

Failure to Obtain Permit.

Where plaintiffs submitted evidence that wide loads, such as defendant was carrying at time of accident, are commonly flagged, that a

permit would probably have required flagging, but that no flagging was present on the bulldozer at the time of the accident, such evidence was sufficient to submit the question

of a permit requirement and noncompliance therewith to the jury, and to allow the jury to draw the inference that the accident might not have happened if a permit had been obtained. Plaintiffs' evidence showed that (1) they were within the class of persons that the statute was designed to protect, (2) defendants were within the class of people upon whom the statute imposed its duty, and (3)

the harm suffered was the type which the statute was designed to prevent. Accordingly, evidence that no permit was obtained was admissible on issue of negligence. *Lelifield v. Johnson*, 104 Idaho 357, 659 P.2d 111 (1983).

Cited in: *State v. Heitz*, 72 Idaho 107, 238 P.2d 439 (1951).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 213

49-1005. Special regulations and notice. — Whenever in the judgment of the board or authorities in charge of, or having jurisdiction over a highway, the operation on any highway or section of highway of vehicles of sizes and weights at rates of speed permissible by law which will cause damage to the highway by reason of climatic or other conditions, or will interfere with the safe and efficient use of the highway by the traveling public, the board or other authorities in charge of, or having jurisdiction over a highway have authority to make regulations reducing the permissible sizes, weights or speeds of vehicles operated on that highway for any periods as may be necessary for the protection of the highway or for public safety. Signs designating those regulations shall be erected and maintained at each end of the highway or section and at intersections with main traveled highways. [1929, ch. 156, § 6, p. 281; I.C.A., § 48-606; am. 1957, ch. 3, § 1, p. 5; am. 1974, ch. 12, § 76, p. 61; am. and redsig. 1988, ch. 265, § 276, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-906 and was amended and redesignated by § 276 of S.L. 1988, ch. 265 to become this section.

Former § 49-1005 was amended and redesignated as § 49-1304 by § 325 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Constitutionality.
Interstate commerce.
Regulations.

Constitutionality.

This section authorizing commissioner of public works (now transportation board) to issue regulations reducing weight of vehicles on public highways of the state is not constitutional. *State v. Heitz*, 72 Idaho 107, 238 P.2d 439 (1951).

This section permitting issuance of regulations reducing weight of vehicles on designated highways of the state does not violate equal protection clause of 14th Amendment of

Federal Constitution, since regulations applied to all vehicles on designated highways. *State v. Heitz*, 72 Idaho 107, 238 P.2d 439 (1951).

Interstate Commerce.

This section authorizing commissioner of public works (now transportation board) to issue regulations reducing weight of vehicles on highway does not discriminate against interstate commerce, since regulations applied to both interstate and intrastate traffic.

State v. Heitz, 72 Idaho 107, 238 P.2d 439 (1951).

utory regulation. State ex rel. McKinney v. Richardson, 76 Idaho 9, 277 P.2d 272 (1954).

Regulations.

Violation of regulation of commissioner (now board) constitutes a violation of a stat-

49-1006. Responsibility for damage to highway or bridge. — The owner and the operator, driver or mover of any vehicle, object or contrivance over [a] a highway or bridge, shall be jointly and severally responsible for all damages which the highway or bridge may sustain as the result of illegally operating or driving or moving any vehicle, object or contrivance, or as the result of driving or moving any vehicle, object or contrivance weighing in excess of the maximum weight specified in this chapter, but authorized by a temporary permit. The amount of the damages may be recovered in an action at law by the authorities in control of the highway or bridge[;]. It shall be unlawful for more than one (1) vehicle, motor vehicle, trailer and/or semitrailer, or combination of vehicles with gross weights in excess of those specified in section 49-1001(1) and (2), Idaho Code, to pass at the same time on any bridge with a span of nineteen (19) feet or more posted by the board for single lane traffic by those trucks. [1929, ch. 156, § 7, p. 281; I.C.A., § 48-607; am. 1953, ch. 69, § 1, p. 91; am. 1974, ch. 12, § 77, p. 61; am. and redesign. 1988, ch. 265, § 277, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-907 and was amended and redesignated by § 277 of S.L. 1988, ch. 265 to become this section.

Former § 49-1006 was amended and redesignated as § 49-1305 by § 326 of S.L. 1988, ch. 265.

The word "a" in the first sentence and the semicolon at the end of the second sentence were placed in brackets by the compiler as surplusage.

JUDICIAL DECISIONS

ANALYSIS

"Damages".

Negligence per se.

"Damages".

In suit for damages by state to recover for collapse of bridge span evidence of cost of removing fallen span and erecting temporary span was properly excluded from the jury, since state can only recover for "damages which said highway or bridge may sustain." State ex rel. McKinney v. Richardson, 76

Idaho 9, 277 P.2d 272 (1954).

Negligence Per Se.

Defendant who drove vehicle across bridge with excessive load where there was a notice posting gross load limit was guilty of negligence per se. State ex rel. McKinney v. Richardson, 76 Idaho 9, 277 P.2d 272 (1954).

RESEARCH REFERENCES

A.L.R. — Liability for damage to highway or bridge caused by size or weight of motor vehicle or load. 53 A.L.R.3d 1035; 31 A.L.R.5th 171.

Measure and elements of damages for injury to bridge. 31 A.L.R.5th 171.

49-1007. Limiting liability of authorities. — No action or proceedings of any nature or description shall lie against the board, its authorized agents, or any other authorities charged with the administration of this chapter because of their compliance with any of the terms of this chapter, the exercise of any authority, or the performance of any duties granted or prescribed by this chapter. [1929, ch. 156, § 8, p. 281; I.C.A., § 48-608; am. 1974, ch. 12, § 78, p. 61; am. and redesisg. 1988, ch. 265, § 278, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-908 and was amended and redesignated by § 278 of S.L. 1988, ch. 265 to become this section.

Former § 49-1007 was amended and redesignated as § 49-1306 by § 327 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Applicability.
This section provided immunity to the Idaho Department of Transportation for its

actions in weighing a truck. V-1 Oil Co. v. Idaho Transp. Dep't, 131 Idaho 482, 959 P.2d 463 (1998).

49-1008. Granting permission for transportation of loads of logs, poles, piling and material from mines which has not been finally processed. — With respect to transportation of logs, poles or piling by motor vehicle, the board or other proper authorities in charge of, or having jurisdiction over a highway, are authorized to designate and post a highway or section of highway or bridge over which loads of logs, poles, or piling may be transported in continuous operation by motor vehicles in excess of width and length provided by section 49-1010, Idaho Code, and to designate and post a highway or section of highway or bridge over which loads of logs, poles, piling or material from mines which has not been finally processed may be transported in continuous operation by motor vehicles in excess of weight provided by section 49-1001, Idaho Code.

The designation and posting of a highway or section of highway or bridge by the board or other proper authorities shall state width, length, gross weight and maximum speed of loads that may be transported. Any motor vehicle complying with width, length and weight allowed by posting of a highway under authority of this title shall not be required to obtain a permit under section 49-1004, Idaho Code. [I.C.A., § 48-612, as added by 1947, ch. 102, § 1, p. 208; am. 1974, ch. 12, § 79, p. 61; am. and redesisg. 1988, ch. 265, § 279, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1008, which comprised 1953, ch. 273, § 46, p. 478; am. 1955, ch. 84, § 4, p. 156 was repealed by S.L. 1976, ch. 55, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-911 and was amended and redesignated by § 279 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: State v. Heitz, 72 Idaho 107, 238 P.2d 439 (1951).

49-1009. Contract for building and maintaining roads. — The board, the governing board of a county, city or highway district is authorized to contract with any individual, firm or corporation, state or federal agency or any combination of parties, to build, rebuild or maintain or contribute financial aid to the building, rebuilding or maintenance of any section or sections of a highway to any standard necessary for the transportation by private or contract trucks principally engaged in the transportation of products originating or produced in Idaho, to permit the hauling of heavier gross weights and wider loads than now provided by law, to an extent necessary to accomplish that maintenance or construction. Upon application of any of the above mentioned parties for permission to use and operate private or contract trucks for hauling greater gross weights and wider loads than provided by law, the board, county, city or district may make and enter into an agreement with the applicant permitting the overload and providing for payment of an additional financial contribution or an agreement to maintain, build or rebuild the highway for the additional or extraordinary use, specifically providing where necessary, for reasonable protective restrictions. If in the opinion of the negotiating officials, a bond should be required, then a surety bond shall be furnished. Nothing in this chapter shall be construed to require any public agency to enter into these contracts or agreements. [I.C., § 49-612, as added by 1953, ch. 85, § 1, p. 115; am. 1974, ch. 12, § 80, p. 61; am. and redesign. 1988, ch. 265, § 280, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-912 and was amended and redesignated by § 280 of S.L. 1988, ch. 265 to become this section.	Former § 49-1009 was amended and redesignated as § 49-1307 by § 328 of S.L. 1988, ch. 265.
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49-1010. Size of vehicles and loads. — No vehicle shall exceed the dimensions specified below, except that certain devices determined by the board as necessary for the safe and efficient operation of motor vehicles, including energy conservation devices, shall be excluded from the calculation of width or length.

- (1) The width of a vehicle, including any load thereon, except as noted below, shall not exceed 8 1/2 feet.
- (a) The limitations as to size of vehicles stated in this section shall not apply to farm tractors or to implements of husbandry, including any load thereon, or any trailer not wider than the implement of husbandry used in the transportation of implements of husbandry for agricultural operations, and including all equipment used in land leveling operations, when being incidentally operated upon the highway from one (1) farm operation to another during daylight hours.

- (b) Notwithstanding the exemption from width limitation for farm tractors included in paragraph (a) of this subsection, the total outside width of any farm tractor being transported on the interstate system in this state, except as permitted by section 49-1004, Idaho Code, shall not exceed 9 feet.
- (c) A farm tractor or implement of husbandry, when being incidentally transported upon the highway with a width in excess of the limits of paragraphs (a) and (b) of this subsection, must display one (1) red or fluorescent orange flag a minimum of twelve (12) by twelve (12) inches on the outermost left projection of the tractor or implement being transported.
- (2) The height of a vehicle, including the load thereon, shall not exceed 14 feet.
- (3) The length of a vehicle, or vehicle combination, except as noted below shall not exceed:
- (a) When a single motor vehicle 45 feet.
- (b) When a trailer or semitrailer, except as noted below 48 feet.
1. Semitrailers operating on routes determined by the board to have severe curvature, deficient width and/or heavy traffic conditions shall be limited to an overall combination length not to exceed 65 feet.
2. The length of a trailer tongue, or the length of the tongue of a converter gear used to convert a semitrailer to a trailer, shall be excluded from the calculation of a trailer length.
3. Semitrailers operating on routes which are a part of the national network as set forth in 23 CFR 658, on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network and state highways as set forth by policy and approved by the transportation board shall not exceed a length of 53 feet.
- (c) When a motor vehicle and one (1) or more trailers, except as noted in subsections (3)(b), (3)(d) and (3)(e) of this section 75 feet.
- (d) When a combination of semitrailer and trailer, or of two (2) semitrailers the length in such combination, including the connecting tongue and excluding the truck tractor except as noted below 61 feet.
- When the combination of semitrailer and trailer or of two (2) semitrailers including the connecting tongues exceeds sixty-one (61) feet, the length of such combination including the truck tractor 75 feet.
- (e) When a combination of a semitrailer and trailer, or of two (2) semitrailers operating on routes on the national network as set forth in 23 CFR 658, and on routes providing access between the national network and terminals and facilities for food, fuel, repairs and rest which are located within one (1) road mile of the national network, the length, including the connecting tongue and excluding the truck tractor, shall not exceed 68 feet.
- (f) When a dromedary tractor with semitrailer, stinger-steered by having the kingpin located five (5) feet to the rear of the centroid of the rear axle(s) 75 feet.
- (g) When a dromedary combination transporting class 1 explosive materials and/or any munitions-related security material as specified by the

U.S. department of defense in compliance with 49 CFR 177.835, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, up to 75 feet.

(h) When a dromedary tractor with semitrailer, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section 65 feet.

(i) When an auto transporter or boat transporter, stinger-steered as defined in subsection (3)(f) of this section, excluding front and rear overhang of load 75 feet.

(j) When an auto transporter or boat transporter, not meeting the stinger-steer requirement as defined in subsection (3)(f) of this section, excluding front and rear overhang of load 65 feet.

(k) When a truck tractor with stinger-steered pole trailer or log dolly, connected by a reach or pole, or a combination used for transporting long loads such as poles, pipes, logs or structural members generally capable of sustaining themselves as beams between supporting bunks or connections 75 feet.

(4) The overhang or extension of a load shall not extend:

(a) Beyond the front of a vehicle, more than 4 feet.

(b) Beyond the end of a vehicle, more than 10 feet.

(c) Beyond the left fender of a passenger vehicle, more than 0 feet.

(d) Beyond the right fender of a passenger vehicle, more than 6 inches.

(e) To the front and rear combined of an auto transporter or boat transporter, more than 7 feet.

(5) Noncargo-carrying devices necessary for the safe and efficient operation of the vehicle, as determined by the board, shall not be included in measurement for length.

(6) No combination shall include more than three (3) units except when a saddlemount combination and the overall length allowed is:

(a) On the national network 97 feet.

(b) Other than the national network 75 feet.

(7) Vehicle combinations consisting of not more than four (4) vehicle units with an overall length in excess of the limits of subsection (3) of this section and with an overall combination length not to exceed one hundred fifteen (115) feet, may be operated by permit on routes designated for such operations by the public highway agency having jurisdiction over that highway system, subject to the following restrictions as to lengths of cargo-carrying units:

(a) Truck tractor and two (2) trailing units 95 feet.

(b) Truck tractor and three (3) trailing units 95 feet.

(c) Truck and two (2) trailing units 98 feet.

[I.C., § 49-913, as added by 1986, ch. 287, § 3, p. 719; am. 1988, ch. 104, § 1, p. 191; am. and redesign. 1988, ch. 265, § 281, p. 549; am. 1989, ch. 310, § 24, p. 769; am. 1989, ch. 408, § 3, p. 996; am. 1992, ch. 230, § 1, p. 687; am. 1992, ch. 231, § 1, p. 689; am. 1992, ch. 232, § 3, p. 691; am. 1993, ch. 123, § 1, p. 313; am. 1993, ch. 334, § 4, p. 1234; am. 1995, ch. 72, § 2, p. 183; am. 2000, ch. 101, § 2, p. 222; am. 2000, ch. 253, § 1, p. 718; am. 2003, ch. 52,

§ 1, p. 191; am. 2003, ch. 239, § 1, p. 617; am. 2005, ch. 85, § 1, p. 301; am. 2007, ch. 20, § 2, p. 31.]

STATUTORY NOTES

Prior Laws. — Former § 49-1010, which comprised 1953, ch. 273, § 47.1, p. 478; am. 1974, ch. 27, § 140, p. 811 was repealed by S.L. 1976, ch. 55, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-913 and was amended and redesignated by § 281 of S.L. 1988, ch. 265 to become this section.

Amendments. — This section was amended by two 2000 acts — ch. 101, § 2, effective July 1, 2000, and ch. 253, § 1, effective April 12, 2000 — which do not conflict and have been compiled together.

The 2000 amendment, by ch. 101, § 2, substituted “red or fluorescent orange flag a minimum of twelve (12) by twelve (12) inches” for “eighteen (18) by eighteen (18) inch red flag” in subdivision (1)(c); in subdivision (3)(c), inserted “(1)” preceding “or more trailers”, and substituted “subsections (3)(b), (3)(d) and (3)(e) of this section” for “(3)(b), (3)(d) and (3)(e)”; and in subdivisions (3)(g), (3)(h) and (3)(i), substituted “subsection (3)(f) of this section” for “(f) above”.

The 2000 amendment, by ch. 253, § 1, in subdivision (3)(b)3. deleted “and” following “Part 658” and inserted “and state highways as set forth by policy and approved by the

transportation board” near the end.

This section was amended by two 2003 acts which appear to be compatible and have been compiled together.

The 2003 amendment, by ch. 52, § 1, inserted “or any trailer not wider than the implement of husbandry used in the transportation of implements of husbandry for agricultural operations” in subsection (1)(a); deleted references to not exceeding a 25 mile per hour speed limit in subdivision (1)(c); and made stylistic changes in subsections (3)(b)3. and (3)(e).

The 2003 amendment, by ch. 239, § 1, in subsection (7) substituted “fifteen (15)” for “and five (5),” inserted “subject to the following restrictions as to lengths of cargo-carrying units,” and added subdivisions (a) through (c).

The 2007 amendment, by ch. 20, added “and the overall length allowed is” at the end of the introductory paragraph in subsection (6) and added paragraphs (6)(a) and (6)(b).

Effective Dates. — Section 34 of S.L. 1989, ch. 310 declared an emergency and provided that the act would become effective retroactively to January 1, 1989. Approved April 5, 1989.

Section 2 of S.L. 2000, ch. 253 declared an emergency. Approved April 12, 2000.

JUDICIAL DECISIONS

Failure to Obtain Permit.

Where plaintiffs submitted evidence that wide loads, such as defendant was carrying at time of accident, are commonly flagged, that a permit would probably have required flagging, but that no flagging was present on the bulldozer at the time of the accident, such evidence was sufficient to submit the question of a permit requirement and noncompliance therewith to the jury, and to allow the jury to draw the inference that the accident might

not have happened if a permit had been obtained. Plaintiffs' evidence showed that (1) they were within the class of persons that the statute was designed to protect, (2) defendants were within the class of people upon whom the statute imposed its duty, and (3) the harm suffered was the type which the statute was designed to prevent. Accordingly, evidence that no permit was obtained was admissible on issue of negligence. *Leliefeld v. Johnson*, 104 Idaho 357, 659 P.2d 111 (1983).

49-1011. Exception to weight and size limitations. — (1) If federal law permits the several states to establish size and weight limits in excess of those prescribed by sections 49-1001 and 49-1010, Idaho Code, the board, as provided in subsection (2) of this section, may authorize the movement on highways under its jurisdiction of vehicles, motor vehicles, trailers and/or semitrailers, or combinations thereof, of a size or weight in excess of the limits prescribed in sections 49-1001 and 49-1010, Idaho Code, but within the limits necessary to qualify for federal-aid highway funds.

(2) The authority granted the board by this section shall be exercised by adoption of rules or regulations pursuant to section 40-312, Idaho Code, or

by issuance of permits pursuant to section 49-1004, Idaho Code, except that the maximum size and weight limits authorized by this section apply. [I.C., § 49-916, as added by 1965, ch. 157, § 1, p. 304; am. 1974, ch. 12, § 83, p. 61; am. 1985, ch. 253, § 5, p. 586; am. and redesign. 1988, ch. 265, § 282, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was Former § 49-1011 was amended and redesignated as § 49-1309 by § 330 of S.L. 1988, amended and redesignated by § 282 of S.L. 1988, ch. 265 to become this section.

49-1012. Temporary movement of harvesting machinery after darkness. — Notwithstanding any other provision of law, harvesting machinery may be moved during hours of darkness when that machinery is equipped, in addition to those requirements set forth in chapter 9, title 49, Idaho Code, with a flashing amber-colored light at least four (4) inches in diameter clearly visible from in front of the machinery, a flashing red-colored light at least four (4) inches in diameter clearly visible from the back of the machinery, and the machinery is preceded by a well-lighted pilot vehicle or flagman at least three hundred (300) feet in advance of the vehicle to give warning of the approach of the equipment and followed by a well-lighted pilot vehicle or flagman at least three hundred (300) feet behind the vehicle to give warning of the presence of the equipment on the highway. [I.C., § 49-918, as added by 1967, ch. 23, § 1, p. 40; am. 1969, ch. 165, § 1, p. 499; am. and redesign. 1988, ch. 265, § 283, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was Former § 49-1012 was amended and redesignated as § 49-1310 by § 331 of S.L. 1988, amended and redesignated by § 283 of S.L. 1988, ch. 265 to become this section.

49-1013. Penalties for violations. — (1) It shall be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this chapter, except that violations of law as specified in paragraphs (a), (b) and (c) of subsection (3) of this section shall constitute an infraction.

(2) Persons convicted of violations of the provisions of sections 49-434A, 49-1003 and 49-1006 through 49-1012, Idaho Code, shall be subject to punishment by a fine of not to exceed three hundred dollars (\$300) or by imprisonment in the county jail for not more than thirty (30) days or by a combination of such fine and imprisonment.

(3) Persons convicted of violations of the provisions of sections 49-438, 49-1001, 49-1002, 49-1004 and 49-1005, Idaho Code, shall be subject to a penalty as prescribed herein:

(a) One (1) pound through one thousand (1,000) pounds overweight shall be five dollars (\$5.00) and shall constitute an infraction.

(b) One thousand one (1,001) pounds through two thousand (2,000) pounds overweight shall be fifteen dollars (\$15.00) and shall constitute an infraction.

(c) Two thousand one (2,001) pounds through four thousand (4,000) pounds overweight shall be twenty-five dollars (\$25.00) and shall constitute an infraction.

(d) Four thousand one (4,001) pounds through fifteen thousand (15,000) pounds overweight shall be twenty-five dollars (\$25.00) plus \$.1341 per pound for each additional pound over four thousand (4,000) pounds overweight.

(e) Fifteen thousand one (15,001) pounds through twenty thousand (20,000) pounds overweight shall be one thousand five hundred dollars (\$1,500) plus twenty cents (\$.20) per pound for each additional pound over fifteen thousand (15,000) pounds overweight.

(f) Twenty thousand one (20,001) pounds and greater shall be two thousand five hundred dollars (\$2,500) plus thirty cents (\$.30) per pound for each additional pound over twenty thousand (20,000) pounds overweight.

(g) In addition to the penalties specified in this subsection, one hundred fifty dollars (\$150) for failure to deploy a variable load suspension axle which results in adjacent axles exceeding allowable weight by two thousand one (2,001) pounds or more.

(4) Persons convicted of an infraction or misdemeanor for violating two (2) or more of the provisions of section 49-1001, 49-1002 or 49-1004, Idaho Code, at any one (1) time shall be assessed the full amount of the penalty for the primary violation. In addition to the assessment of the penalty for the primary violation, the person convicted of an infraction or misdemeanor shall be assessed a penalty of ten dollars (\$10.00) for each additional misdemeanor conviction or five dollars (\$5.00) for each additional infraction for violations of section 49-1001, 49-1002 or 49-1004, Idaho Code, committed at the same time.

(5) All moneys collected as a result of the penalties prescribed in subsections (3) and (4) of this section, shall be deposited into the highway distribution account. [1929, ch. 156, § 9, p. 281; I.C.A., § 48-609; am. and redesisg. 1988, ch. 265, § 284, p. 549; am. 1991, ch. 226, § 3, p. 538; am. 1995, ch. 122, § 4, p. 526; am. 1997, ch. 135, § 1, p. 403; am. 1998, ch. 266, § 1, p. 877; am. 2000, ch. 101, § 3, p. 222; am. 2005, ch. 182, § 2, p. 557.]

STATUTORY NOTES

Cross References. — Highway distribution account, § 40-701.

Compiler's Notes. — This section was formerly compiled as § 49-909 and was amended and redesignated by § 284 of S.L. 1988, ch. 265 to become this section.

Former § 49-1013 was amended and redesignated as § 49-1311 by § 332 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L.

1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 6 of S.L. 1991, ch. 226 provided that the act should take effect on and after January 1, 1992.

Section 2 of S.L. 1998, ch. 266 declared an emergency. Approved March 24, 1998.

Section 4 of S.L. 2000, ch. 101 provided that the act shall be in full force and effect on and after July 1, 2000.

JUDICIAL DECISIONS

Double Jeopardy.

Defendant's three separate fines for his three weight violations did not violate double jeopardy, because defendant's registered gross weight violation was a separate offense from each of defendant's two axle weight violations under the *Blockburger* test, and the Idaho Legislature clearly authorized cumulative punishment for defendant's two axle weight violations; a registered gross weight

violation required the State to prove that defendant had exceeded the weight at which he registered his tractor-trailer, and the elements to prove defendant exceeded the allowable weight limits for his tandem drive axle and his four axle bridge did not require the State to prove the defendant's registered weight. *State v. Bryan*, — Idaho —, 181 P.3d 538 (Ct. App. 2008).

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, §§ 43, 44.

49-1014 — 49-1017. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-1014 — 49-1017 were amended and redesignated as §§ 49-1312 — 49-1315 by §§ 333 — 336 of S.L. 1988, ch. 265.

CHAPTER 11

CARAVANING OF MOTOR VEHICLES

SECTION.

49-1101 — 49-1136. [Repealed.]

49-1101 — 49-1136. Permit required — Display — Distance between cars in caravan — Fee for permit — Compliance with transportation laws — Driving under the influence of alcohol, drugs, etc. — Penalties — Aggravated offense — Permit nontransferable — Duration — Contents — Fee for permit in lieu of other fees — Exception — Administration of law. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — Former chapter 11 of Title 48, which comprised the following sections, was repealed by S.L. 1998, ch. 265, § 3, effective July 1, 1998.

49-1101: Formerly compiled as § 49-1802 [1935 (2nd E.S.), ch. 2, § 2, p. 6; am. 1969, ch. 85, § 2, p. 258; am. 1982, ch. 95, § 100, p. 185]; amended and redesignated by § 286, of S.L. 1988, ch. 265. A former § 49-1101, comprising S.L. 1953, ch. 273, § 53, p. 478, was repealed by section 1 of S.L. 1965, ch. 136.

49-1102: Formerly compiled as § 49-1803 [1935 (2nd E.S.), ch. 2, § 3, p. 6; am. 1980, ch. 282, § 1, p. 752; am. 1981, ch. 12, § 3, p. 21; am. 1982, ch. 95, § 101, p. 185]; amended and redesignated by § 287 of S.L. 1988, ch. 265. A

former § 49-1102 was amended and redesignated as § 49-1404 by § 340 of S.L. 1988, ch. 265.

49-1102A, 49-1102B: I.C., § 49-1102A, 49-1102B, as added by 1983 (Ex. Sess.), ch. 3, §§ 14, 15, p. 8, repealed by S.L. 1984, ch. 22, § 1, effective March 1, 1984.

49-1103: Formerly compiled as § 49-1804 [1935 (2nd E.S.), ch. 2, § 4, p. 6; am. 1982, ch. 95, § 102, p. 185]; amended and redesignated by § 288 of S.L. 1988, ch. 265. A former § 49-1103 was amended and redesignated as § 49-1401 by § 337 of S.L. 1988, ch. 265.

49-1104: Formerly compiled as § 49-1805 [1935 (2nd E.S.), ch. 2, § 5, p. 6]; amended and redesignated by § 289 of S.L. 1988, ch.

265. A former § 49-1104 was amended and redesignated as subsections (1) — (4) of § 49-236 by § 28 of S.L. 1988, ch. 265.

49-1105: Formerly compiled as § 49-1807 [1935 (2nd E.S.), ch. 2, § 7, p. 6; am. 1982, ch. 95, § 104, p. 185]; amended and redesignated by § 290 of S.L. 1988, ch. 265. A former § 49-1105, which comprised 1953, ch. 273, § 176, p. 478; am. 1959, ch. 296, § 1, p. 611; am. 1961, ch. 107, § 1, p. 158, was repealed by S.L. 1974, ch. 27, § 1.

49-1106 — 49-1116: Amended and redesignated as §§ 49-1402, 49-1403, 49-236(5), 49-1405 — 49-1412 by §§ 338, 339, 28, 341-348 of S.L. 1988, ch. 265, respectively.

49-1117: S.L. 1953, ch. 273, § 181, p. 478, repealed by S.L. 1981, ch. 225, § 1.

49-1118: Amended and redesignated as

§ 49-1413 by § 349 of S.L. 1988, ch. 265.

49-1119: S.L. 1953, ch. 273, § 183, p. 478, repealed by S.L. 1988, ch. 265, § 285.

49-1120, 49-1121: Amended and redesignated as §§ 49-1414 and 49-240 by §§ 350 and 32 of S.L. 1988, ch. 265, respectively.

49-1122: S.L. 1953, ch. 273, § 186, p. 478; am. 1969, ch. 23, § 2, p. 46, repealed by S.L. 1979, ch. 165, § 3.

49-1123, 49-1124: Amended and redesignated as §§ 49-1415 and 49-1416 by §§ 351 and 352 of S.L. 1988, ch. 265, respectively.

49-1125, 49-1126: S.L. 1953, ch. 273, §§ 189, 190, p. 478, repealed by S.L. 1988, ch. 265, § 285.

49-1127 — 49-1136: Amended and redesignated as §§ 49-1417 — 49-1427 by §§ 353-363 of S.L. 1988, ch. 265, respectively.

CHAPTER 12

MOTOR VEHICLE FINANCIAL RESPONSIBILITY

SECTION.

49-1201. Department to administer — Court review.

49-1202. Department to furnish operating record.

49-1203. Courts to report nonpayment of judgments — Nonresidents.

49-1204. Suspension for nonpayment of judgments.

49-1205. Suspension to continue until judgments paid and proof given.

49-1206. Payments sufficient to satisfy requirements.

49-1207. Installment payment of judgments — Default.

49-1208. Proof required upon certain convictions.

49-1209. [Repealed.]

49-1210. Certificate of insurance as proof. [Repealed effective July 1, 2009.]

49-1210A, 49-1211. [Repealed.]

49-1212. Expressed, permitted and implied provisions of motor vehicle liability policy.

49-1213. Notice of cancellation or termination of certified policy.

SECTION.

49-1214. Not to affect other policies.

49-1215, 49-1216. [Repealed.]

49-1217. Owner may give proof for others.

49-1218 — 49-1219. [Repealed.]

49-1220. Duration of proof — When proof may be canceled or returned.

49-1221. Transfer of registration to defeat purpose — Prohibited.

49-1222. Surrender of Idaho driver's license.

49-1223. Exceptions from chapter.

49-1224. Self-insurers.

49-1225. Assigned risk plans.

49-1226. Chapter not to prevent other process.

49-1227 — 49-1228. [Reserved.]

49-1229. Required motor vehicle insurance.

49-1230. Proof of compliance.

49-1231. Certificate of liability insurance — How acquired.

49-1231A. [Repealed.]

49-1232. Certificate or proof of liability insurance to be carried in motor vehicle.

49-1233. Motor carrier financial responsibility — Exemptions — Board rules.

49-1234 — 49-1242. [Repealed.]

49-1201. Department to administer — Court review. — (1) The department shall administer and enforce the provisions of this chapter.

(2) Any person aggrieved by an order or an act of the department, may, within ten (10) days after notice[,] file a petition in the district court for Ada County for a review. The filing of such a petition shall not suspend the order or act unless a stay shall be allowed by a judge of the court pending final determination of the review. The court shall summarily hear the petition and may make any appropriate order or decree. [1947, ch. 256, § 2, p. 706;

am. 1974, ch. 27, § 144, p. 811; am. 1982, ch. 95, § 77, p. 185; am. and redesign. 1988, ch. 265, § 291, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1201, which comprised S.L. 1933, ch. 46, § 1, p. 60; am. 1941, ch. 136, § 1, p. 259; am. 1947, ch. 218, § 1, p. 516; am. 1953, ch. 68, § 1, p. 90; am. 1953, ch. 259, § 1, p. 413; am. 1955, ch. 267, § 1, p. 646; am. 1959, ch. 75, § 1, p. 168; am. 1966 (2nd E.S.), ch. 9, § 2, p. 23, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1502 and was amended and redesignated by § 291 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

Coverage By Multiple Policies.

The Idaho Motor Vehicle Financial Responsibility Act (IMVFRA) requires car rental agencies to carry liability insurance on the vehicles it rents, but it does not address the efficacy of other insurance clauses in cases where more than one insurance policy is at issue. Where the lessee is covered by two

policies and losses due to accident are less than combined limits of both applicable policies; the losses should be allocated pro rata in proportion to the amount of insurance provided by the respective policies. *Empire Fire & Marine Ins. Co. v. North Pac. Ins. Co.*, 127 Idaho 716, 905 P.2d 1025 (1995).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 167 et seq.

C.J.S. — 60 C.J.S., Motor Vehicles, § 316 et seq.

49-1202. Department to furnish operating record. — The department shall upon request furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter providing fees have been paid pursuant to section 49-202, Idaho Code. Personal information contained in the operating record shall be exempt from disclosure as provided in chapter 2, title 49, Idaho Code. The abstract shall also fully designate the motor vehicles, if any, registered in the name of the person. If there is no record of any conviction of the person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by that person, the department shall so certify. These abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. [1988, ch. 265, § 292, p. 549; am. 1992, ch. 115, § 23, p. 345; am. 1997, ch. 80, § 12, p. 165.]

STATUTORY NOTES

Effective Dates. — Section 13 of S.L. 1997, ch. 80 provided that the act should be in full force and effect on and after September 13, 1997.

JUDICIAL DECISIONS

Cited in: *Martin v. Hackworth*, 127 Idaho 68, 896 P.2d 976 (1995).

49-1203. Courts to report nonpayment of judgments — Nonresidents. — (1) Whenever any person fails within sixty (60) days to satisfy a judgment, it shall be the duty of the clerk of the court, or of the judge of a court, which has no clerk, in which a judgment is rendered within this state, to forward to the department immediately after the expiration of the sixty (60) days, a certified copy of the judgment.

(2) If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of drivers' licenses of the state of which the defendant is a resident. [1947, ch. 256, § 12, p. 706; am. 1974, ch. 27, § 154, p. 811; am. 1982, ch. 95, § 86, p. 185; am. and redesign. 1988, ch. 265, § 293, p. 549; am. 1990, ch. 45, § 32, p. 71.]

STATUTORY NOTES

Prior Laws. — Former § 49-1203, which comprised S.L. 1933, ch. 46, § 3, p. 60; am. 1947, ch. 218, § 3, p. 516, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1512 and was amended and redesignated by § 293 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 47 of S.L.

1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-1204. Suspension for nonpayment of judgments. — (1) Upon receipt of a certified copy of a judgment, the department shall suspend, except as provided in section 49-1207, Idaho Code, the driver's license or the nonresident's driving privilege of any person against whom the judgment was rendered.

(2) If the judgment creditor consents in writing, in a form as the department may prescribe, that the judgment debtor be allowed a driver's license or nonresident's driving privilege, he may so be allowed by the department, in its discretion, for six (6) months from the date of consent and thereafter until consent is revoked in writing, notwithstanding default in the payment of the judgment, or of any installments prescribed in section 49-1207, Idaho Code, provided the judgment debtor furnishes proof of financial responsibility. [1947, ch. 256, § 13, p. 706; am. 1974, ch. 27, § 155, p. 811; am. 1982, ch. 95, § 87, p. 185; am. and redesign. 1988, ch. 265, § 294, p. 549; am. 1990, ch. 45, § 33, p. 71.]

STATUTORY NOTES

Prior Laws. — Former § 49-1204, which comprised S.L. 1933, ch. 46, § 4, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1513 and was amended and redesignated by § 294 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full

force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

Cited in: Idaho State Bar v. Eliassen, 128 Idaho 393, 913 P.2d 1163 (1996).

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 171.

C.J.S. — 60 C.J.S., Motor Vehicles, § 316 et seq.

49-1205. Suspension to continue until judgments paid and proof given. — The driver's license and nonresident's driving privilege shall, except as provided in section 49-1207, Idaho Code, remain suspended and shall not be renewed, nor shall any driver's license be issued in the name of that person, including any person not previously licensed, unless and until every judgment is stayed, satisfied or discharged and proof of financial responsibility is given. A discharge in bankruptcy shall not be deemed a satisfaction of judgment unless the person gives proof of financial responsibility. [1947, ch. 256, § 14, p. 706; am. and redesign. 1988, ch. 265, § 295, p. 549; am. 1990, ch. 45, § 34, p. 71.]

STATUTORY NOTES

Prior Laws. — Former § 49-1205, which comprised S.L. 1933, ch. 46, § 5, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1514 and was amended and redesignated by § 295 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full

force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-1206. Payments sufficient to satisfy requirements. — Judgments in excess of the amounts specified in section 49-117, Idaho Code, shall, for the purpose of this chapter only, be deemed satisfied when payments in the amounts specified have been credited. Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the respective amount specified. [1947, ch. 256, § 15, p. 706; am. and redesign. 1988, ch. 265, § 296, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1206, which comprised S.L. 1933, ch. 46, § 6, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was

formerly compiled as § 49-1515 and was amended and redesignated by § 296 of S.L. 1988, ch. 265 to become this section.

49-1207. Installment payment of judgments — Default. — (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which judgment was rendered for the privilege of paying the judgment in installments and the court may, in its discretion and without

prejudice to any other legal remedies which the judgment creditor may have, so order and fix the amounts and times of payment of the installments.

(2) The department shall not suspend a driver's license or a nonresident's driving privilege, and shall restore any driver's license or nonresident's driving privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains an order permitting the payment of the judgment in installments, and while the payment of any installment is not in default.

(3) In the event the judgment debtor fails to pay any installment as specified by such order, then upon notice of default, the department shall suspend the driver's license or nonresident's driving privilege of the judgment debtor until the judgment is satisfied, as provided in this chapter. [1947, ch. 256, § 16, p. 706; am. 1974, ch. 27, § 156, p. 811; am. 1982, ch. 95, § 88, p. 185; am. and redesign. 1988, ch. 265, § 297, p. 549; am. 1990, ch. 45, § 35, p. 71.]

STATUTORY NOTES

Prior Laws. — Former § 49-1207, which comprised S.L. 1933, ch. 46, § 7, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1516 and was amended and redesignated by § 297 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full

force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-1208. Proof required upon certain convictions. — (1) If a person is not licensed, but by final order or judgment is convicted of, or forfeits any bail or collateral deposited to secure an appearance for trial, or has entered a plea of guilty for, any offense requiring the suspension or revocation of the driver's license, or for operating a motor vehicle upon the highways without being licensed to do so, no driver's license shall be issued to that person and his driving privilege shall remain suspended or revoked until he gives and maintains proof of financial responsibility. Such person shall be required to verify proof of financial responsibility for a three (3) year period commencing with the last day of the suspension or revocation.

(2) Whenever the department or a court suspends, or the department revokes a resident's driver's license or nonresident's driving privilege by reason of a conviction, forfeiture of bail, or upon a plea or finding of guilty, the license or privilege shall remain suspended or revoked unless the person shall have previously given or shall immediately give and maintain proof of financial responsibility. Such person shall be required to verify proof of financial responsibility for a three (3) year period commencing with the last day of the suspension or revocation.

(3) Any person who is convicted of violating the provisions of either section 49-1229, 49-1232 or 49-1428, Idaho Code, for the first time shall give and maintain proof of financial responsibility throughout the one (1) year period following the conviction. Any person convicted for a second or any subsequent time of violating the provisions of section 49-1229, 49-1232 or

49-1428, Idaho Code, within a five (5) year period, shall give and maintain proof of financial responsibility throughout the three (3) year period following such conviction. The department shall notify any person subject to this subsection of the requirements for maintaining proof of financial responsibility for a second and any subsequent conviction. The driver's license and driving privileges shall remain suspended unless the person gives and maintains proof of financial responsibility throughout either the one (1) year or the three (3) year period following such conviction.

(4) Whenever a person is required to maintain proof of financial responsibility, and who is not a resident of Idaho, files and maintains proof of financial responsibility in his home state the department shall reinstate the person's driving privileges as long as proof of financial responsibility is maintained in the person's home state. [1947, ch. 256, § 17, p. 706; am. 1974, ch. 27, § 157, p. 811; am. 1982, ch. 95, § 89, p. 185; am. and redesig. 1988, ch. 265, § 298, p. 549; am. 1989, ch. 310, § 25, p. 769; am. 1990, ch. 45, § 36, p. 71; am. 1990, ch. 432, § 3, p. 1198; am. 1992, ch. 115, § 24, p. 345; am. 1998, ch. 110, § 28, p. 375; am. 1998, ch. 423, § 1, p. 1335; am. 1999, ch. 81, § 17, p. 237; am. 2001, ch. 74, § 3, p. 171.]

STATUTORY NOTES

Prior Laws. — Former § 49-1208, which comprised S.L. 1933, ch. 46, § 8, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Amendments. — This section was amended by two 1998 acts — ch. 110, § 28, effective July 1, 1998 and ch. 423, § 1, effective January 1, 1999.

The 1998 amendment, by ch. 110, § 28, subsection (3), added "have his driver's license and driving privileges suspended for a three (3) year period following such conviction. The driver's license and driving privileges shall remain suspended unless the person" and changed "give" to "gives" and "maintain" to "maintains".

The 1998 amendment, by ch. 423, § 1, in subsection (3), added "for the first time shall give and maintain proof of financial responsibility throughout the one (1) year period following the conviction, and for a second conviction and any subsequent conviction within five (5) years," and added "The department shall notify any person subject to this subsection of the requirements for maintaining proof of financial responsibility for a second and any subsequent conviction."

Compiler's Notes. — This section was formerly compiled as § 49-1517 and was amended and redesignated by § 298 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 34 of S.L. 1989, ch. 310 declared an emergency and provided that the act would become effective retroactively to January 1, 1989. Approved April 5, 1989.

Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

Section 10 of S.L. 1990, ch. 432 provided: "The provisions of Sections 1 through 8 of this act shall become effective on a date to be determined by the Director of the Transportation Department which date shall be enumerated in a proclamation signed by the Director and filed with the Secretary of State, but in no event later than September 1, 1990."

JUDICIAL DECISIONS

Length of License Suspension.

Read together, § 49-120(31) and § 49-328(1) recognize the temporary nature of a license suspension for a definite period of time, in conflict with subsection (2) of this section which mandates that a suspension

continue indefinitely unless a driver maintains proof of financial responsibility. *State v. Resendiz-Fortanel*, 131 Idaho 488, 959 P.2d 845 (Ct. App. 1998).

A period of suspension or revocation is not extended by a driver's failure to apply for or

pay fees associated with the reinstatement of his driving privileges. *State v. Resendiz-Fortanel*, 131 Idaho 488, 959 P.2d 845 (Ct. App. 1998).

If the underlying suspension falls within the ambit of subsection (2) of this section, that suspension is extended unless or until the

driver shall have given or shall immediately provide the department with proof of financial responsibility. *State v. Resendiz-Fortanel*, 131 Idaho 488, 959 P.2d 845 (Ct. App. 1998).

Cited in: *State v. Bedard*, 120 Idaho 869, 820 P.2d 1226 (1991).

49-1209. Alternate methods of giving proof. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section which comprised 1947, ch. 256, § 18, p. 706; am. and redesi. from § 49-1518 by 1988, ch. 265,

§ 299, p. 549; am. 1992, ch. 115, § 25, p. 345, was repealed by S.L. 2001, ch. 74, § 4.

49-1210. Certificate of insurance as proof. [Repealed effective July 1, 2009.] — (1) Proof of financial responsibility, as required by the provisions of section 49-1208, Idaho Code, shall be furnished for each motor vehicle registered by any person required to provide such proof, or shall be furnished by any person required to provide such proof even if the person is not the owner of a motor vehicle. Such persons shall file with the department the written certificate of any insurance carrier duly authorized to do business in this state on a form approved by the department certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate shall give the effective date of the motor vehicle liability policy, which date shall be the same as the effective date of the certificate. The certificate shall also designate by appropriate reference all motor vehicles covered by that policy, unless the policy is issued to a person who is not the owner of a motor vehicle. [1947, ch. 256, § 19, p. 706; am. 1974, ch. 27, § 158, p. 811; am. 1982, ch. 95, § 90, p. 185; am. and redesi. 1988, ch. 265, § 300, p. 549; am. 2001, ch. 74, § 5, p. 171; am. 2003, ch. 236, § 1, p. 606.]

STATUTORY NOTES

Prior Laws. — Former § 49-1210, which comprised S.L. 1933, ch. 46, § 10, p. 60; am. 1939, ch. 11, § 1, p. 27; am. 1945, ch. 194, § 1, p. 309; am. 1947, ch. 90, § 1, p. 156; am. 1949, ch. 110, § 1, p. 199; am. 1955, ch. 267, § 2, p. 646; am. 1959, ch. 75, § 2, p. 168; am. 1967 (1st E.S.), ch. 4, § 4, p. 12; am. 1972, ch. 209, § 1, p. 578, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was

formerly compiled as § 49-1519 and was amended and redesignated by § 300 of S.L. 1988, ch. 265 to become this section.

As amended by S.L. 2003, ch. 236, § 1, this section has a subsection (1) but no subsection (2).

Effective Dates. — Section 2 of S.L. 2003, ch. 236 provided: "The provisions of this act shall be null, void and of no force and effect on and after June 30, 2009."

JUDICIAL DECISIONS

ANALYSIS

Scope of policy.
Suspension or revocation of license.

Scope of Policy.

Under policy issued to husband to enable him to establish proof of financial responsibility under the Motor Vehicle Safety Responsibility Act as a condition to the registration of his automobile and the issuance to him of a driver's license, there was no liability under such policy for the negligent operation of an automobile by him other than the one automobile covered by the policy regardless of the fact that the car he was driving at the time of killing a man was community property, placed in the name of his wife, as was the covered automobile. *Farmers Ins. Exch. v. Wendler*, 84 Idaho 114, 368 P.2d 933 (1962).

Where automobile insurance policy contained exclusionary clause which excluded liability for bodily injury to any member of

insured's household, such exclusionary policy was not contrary to public policy. *Porter v. Farmers Ins. Co.*, 102 Idaho 132, 627 P.2d 311 (1981).

Suspension or Revocation of License.

The requirements of former law regarding express, permitted and implied provisions of motor vehicle liability policy applied only to policies of insurance that were selected as the preferred method of giving proof of financial responsibility following the suspension or the revocation of a driver's license due to a conviction or forfeiture of bail, and certified pursuant to this section or such former section. *Porter v. Farmers Ins. Co.*, 102 Idaho 132, 627 P.2d 311 (1981).

49-1210A. Partial allocation of excise tax funds. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-1210A, as added by 1971, ch. 187, § 3, p. 865; am. 1972, ch. 281,

§ 2, p. 699; am. 1972, ch. 295, § 1, p. 743, was repealed by S.L. 1973, ch. 260, § 2.

49-1211. Certificate furnished by nonresident as proof. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1947, ch. 256, § 20, p. 706; am. 1974, ch. 27, § 159, p. 811; am. 1982, ch. 95, § 91, p. 185; am. and redesign. from § 49-1520 by 1988, ch. 265, § 301, p. 549, was repealed

by S.L. 1992, ch. 115, § 26.

Former § 49-1211, which comprised S.L. 1933, ch. 46, § 11, was repealed by S.L. 1973, ch. 260, § 2.

49-1212. Expressed, permitted and implied provisions of motor vehicle liability policy. — (1) An owner's policy of liability insurance shall:

- (a) Designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is to be granted; and
- (b) Insure the person named therein and any other person, as insured, using any such described motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as provided in section 49-117, Idaho Code.

(2) An operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth in subsection (1) of this section with respect to an owner's policy of liability insurance.

(3) A motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be indorsed that insurance is provided in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this chapter.

(4) A motor vehicle liability policy shall not insure any liability under any worker's compensation law as provided in title 72, Idaho Code, nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any described motor vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(5) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

(a) The policy may not be canceled or annulled as to any liability by any agreement between the insurance carrier and the insured after the occurrence of any injury or damage covered by the motor vehicle liability policy.

(b) Satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier shall have the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount shall be deductible from the limits of liability specified in subsection (1)(b) of this section.

(d) The policy and its written application, if any, and any rider or indorsement which does not conflict with the provisions of this chapter shall constitute the entire contract between the parties.

(6) Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and any excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants an excess of additional coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(7) Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

(8) Any motor vehicle liability policy may provide for the prorating of the insurance with other valid and collectible insurance.

(9) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one (1) or more insurance carriers which policies together meet the requirements of this chapter.

(10) Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

(11) When the negligent operation of a loaned vehicle results in the death or injury to a person or personal property, except for the loaned vehicle, and

at the time of the negligent operation of the loaned vehicle the operator of the loaned vehicle is insured under a motor vehicle liability policy complying with the financial responsibility law of this state, primary coverage for the death of or injury to a person or personal property, except for the loaned vehicle, shall be provided by the operator's motor vehicle liability policy. The insurance policy of the owner of the loaned vehicle shall provide secondary or excess coverage for the death of or injury to a person or personal property, however the loaned vehicle owner's insurance shall provide primary coverage for damage to the loaned vehicle.

(a) For the purpose of this subsection, "loaned vehicle" means a motor vehicle which is provided for temporary use without charge to the operator by an entity licensed under chapter 16, title 49, Idaho Code, for the purpose of demonstrating the vehicle to the operator as a prospective purchaser, or as a convenience to the operator during the repairing or servicing of a motor vehicle for the operator, regardless of whether such repair or service is performed by the owner of the loaned vehicle or by some other person or business.

(b) Should the owner of a motor vehicle receive any compensation from or on behalf of the operator for the temporary use of the motor vehicle, excluding any compensation provided to the owner as a result of the repairing or servicing of a motor vehicle for the operator, the owner's insurance coverage shall be primary and the operator's motor vehicle insurance shall be secondary or excess.

(12) No motor vehicle liability policy providing coverage beyond state mandated minimum limits shall provide a reduced level of coverage to any insured's family or household member or other authorized user except as provided in section 41-2510, Idaho Code. [1947, ch. 256, § 21, p. 706; am. 1961, ch. 136, § 3, p. 198; am. 1983, ch. 199, § 4, p. 539; am. and redesign. 1988, ch. 265, § 302, p. 549; am. 2000, ch. 232, § 1, p. 650; am. 2007, ch. 307, § 1, p. 859.]

STATUTORY NOTES

Cross References. — Proof of financial responsibility, § 49-117.

Prior Laws. — Former § 49-1212, which comprised S.L. 1933, ch. 46, § 12; am. 1941, ch. 153, § 1; am. 1945, ch. 163, § 1; am. 1947, ch. 218, § 4; am. 1950 (E.S.), ch. 71, § 1; am. 1955, ch. 32, § 1, was repealed by S.L. 1973, ch. 260, § 2.

Amendments. — The 2007 amendment,

by ch. 307, added subsection (12).

Compiler's Notes. — This section was formerly compiled as § 49-1521 and was amended and designated by § 302 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 2 of S.L. 2000, ch. 232 provided that the act shall be in full force and effect on and after July 1, 2000.

JUDICIAL DECISIONS

ANALYSIS

Coverage not required.

Entitlement exclusion.

Insurance.

Non-owned vehicles.

Permissive use.

Protection of third persons.

Use.

Coverage Not Required.

When read in conjunction with this section, § 49-1229 does not require coverage of damage caused to property owned by, rented to, in charge of, or transported by the insured. *McMinn v. Peterson*, 116 Idaho 541, 777 P.2d 1214 (Ct. App. 1989).

Entitlement Exclusion.

An entitlement exclusion in an automobile insurance policy which focused on the driver's state of mind to the extent that it denied coverage when the owner has given implied or express permission to a driver to operate the vehicle violated subdivision (1)(b) of this section. *Allied Group Ins. Co. v. Garcia*, 123 Idaho 733, 852 P.2d 485 (1993).

Insurance.

Under policy issued to husband to enable him to establish proof of financial responsibility under the Motor Vehicle Safety Responsibility Act as a condition to the registration of his automobile and the issuance to him of a driver's license, there was no liability under such policy for the negligent operation of an automobile by him other than the one automobile covered by the policy regardless of the fact that the car he was driving at the time of killing a man was community property, placed in the name of his wife, as was the covered automobile. *Farmers Ins. Exch. v. Wendler*, 84 Idaho 114, 368 P.2d 933 (1962).

Where insurer did not undertake to provide proof of financial responsibility by the issuance of the policy in question, but rather was unaware of the prior accident of insured and his drinking habits, such liability policy was not obtained or issued under the requirements of the Idaho Motor Vehicle Safety Responsibility Act and the terms and conditions of said policy imposed no absolute liability upon the insurer. Upon proof of insured's knowledge that the application contained false statements material to the risk when it was signed, insurer was entitled to cancel the policy. *Temperance Ins. Exch. v. Coburn*, 85 Idaho 468, 379 P.2d 653 (1963).

Non-Owned Vehicles.

It was permissible, under the statutory law in effect in 1987, for an insurance company to exclude from coverage, in a motor vehicle owner's policy of liability insurance, non-owned vehicles regularly made available for use by the insured. *Colonial Penn Franklin Ins. Co. v. Welch*, 119 Idaho 913, 811 P.2d 838 (1991).

Permissive Use.

Since the purpose of the motor vehicle safety responsibility act is to protect the pub-

lic against irresponsible drivers, the word "permission" in a family context situation means general permission to at least occasionally use a family vehicle and precise permission to do what the driver is doing at the moment of the accident is unnecessary. *Farm Bureau Mut. Ins. Co. v. Hmelevsky*, 97 Idaho 46, 539 P.2d 598 (1975).

Where a daughter had specific permission to drive the family automobile for a limited purpose on the day of the accident and, though specifically forbidden to allow any other person to drive the vehicle, the daughter expressly permitted a third person to operate the automobile, operation of the vehicle by the third person was with the permission of the parents and, thus, within the coverage of a motor vehicle liability policy, even though daughter had deviated from the specific use permission at the time of the accident. *Farm Bureau Mut. Ins. Co. v. Hmelevsky*, 97 Idaho 46, 539 P.2d 598 (1975).

Protection of Third Persons.

Liability insurance protecting the owner-operator against financial loss is operative in protecting third persons regardless of what motor vehicle the damaged third person might have been occupying, or whether the third party was a pedestrian, or in any other circumstance when the third person was injured by the operation of the insured motor vehicle. *Dullenty v. Rocky Mt. Fire & Cas. Co.*, 111 Idaho 98, 721 P.2d 198 (1986), overruled on other grounds, *Colonial Penn Franklin Ins. Co. v. Welch*, 119 Idaho 913, 811 P.2d 838 (1991).

The liability portion of an automobile insurance policy does not protect third persons from damage caused by an insured while driving a named motor vehicle; rather it is the tortfeasor owner-operator of the named vehicle who is protected against financial loss when and if a damaged third party makes a claim against the insured owner-operator. *Dullenty v. Rocky Mt. Fire & Cas. Co.*, 111 Idaho 98, 721 P.2d 198 (1986), overruled on other grounds, *Colonial Penn Franklin Ins. Co. v. Welch*, 119 Idaho 913, 811 P.2d 838 (1991).

Use.

"Use" that relates to the inherent nature of a motor vehicle, for which liability insurance coverage is mandated by subsection (1)(b) of this section, does not extend to every utilization of a motor vehicle that may be devised. *Hawkeye-Security Ins. Co. v. Gilbert*, 124 Idaho 953, 866 P.2d 976 (Ct. App. 1993).

Cited in: *Purvis v. Progressive Cas. Ins. Co.*, 142 Idaho 213, 127 P.3d 116 (2005).

RESEARCH REFERENCES

A.L.R. — Cancellation of compulsory or financial responsibility automobile insurance.
44 A.L.R.4th 13.

49-1213. Notice of cancellation or termination of certified policy. — When an insurance carrier has certified a motor vehicle liability policy under section 49-1210, Idaho Code, the insurance so certified shall not be cancelled or terminated until at least ten (10) days after a notice of cancellation or termination of the insurance so certified shall be filed with the department. A policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates. [1947, ch. 256, § 22, p. 706; am. 1974, ch. 27, § 160, p. 811; am. 1982, ch. 95, § 92, p. 185; am. and redesign. 1988, ch. 265, § 303, p. 549; am. 1992, ch. 115, § 27, p. 345.]

STATUTORY NOTES

Prior Laws. — Former § 49-1213, which comprised S.L. 1933, ch. 46, § 13; am. 1959, ch. 75, § 3; am. 1972, ch. 189, § 1, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1522 and was amended and redesignated by § 303 of S.L. 1988, ch. 265 to become this section.

49-1214. Not to affect other policies. — (1) This chapter shall not be held to apply to or affect policies of motor vehicle insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are indorsed to conform to the requirements of this chapter, may be certified as proof of financial responsibility under this chapter. [1947, ch. 256, § 23, p. 706; am. and redesign. 1988, ch. 265, § 304, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1214, which comprised S.L. 1933, ch. 46, § 14, p. 60; am. 1939, ch. 265, § 1, p. 653, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1523 and was

amended and redesignated by § 304 of S.L. 1988, ch. 265 to become this section.

As amended by S.L. 1988, ch. 265, § 304, this section has a subsection (1) but no subsection (2).

49-1215, 49-1216. Bond as proof — Money or securities as proof.
[Repealed.]

STATUTORY NOTES

Compiler's Notes. — The following sections were repealed by S.L. 2001, ch. 74, § 6:
49-1215 which comprised 1947, ch. 256, § 24, p. 706; am. 1974, ch. 27, § 161, p. 811; am. 1982, ch. 95, § 93, p. 185; am. and

redesign. from § 49-1524 by 1988, ch. 265, § 305, p. 549.

49-1216 which comprised 1947, ch. 256, § 25, p. 706; am. and redesign. from § 45-1525 by 1988, ch. 265, § 306, p. 549.

49-1217. Owner may give proof for others. — Whenever any person required to give proof of financial responsibility is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the department shall accept proof given by the owner in lieu of proof by the other person to permit that other person to operate a motor vehicle. [1947, ch. 256, § 26, p. 706; am. 1974, ch. 27, § 162, p. 811; am. 1982, ch. 95, § 94, p. 185; am. and redesign. 1988, ch. 265, § 307, p. 549; am. 1989, ch. 88, § 46, p. 151; am. 1992, ch. 115, § 28, p. 345.]

STATUTORY NOTES

Prior Laws. — Former § 49-1217, which comprised S.L. 1933, ch. 46, § 17, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

formerly compiled as § 49-1526 and was amended and redesignated by § 307 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-1218. Substitution of proof. [Repealed.]

STATUTORY NOTES

Prior Laws. — A former § 49-1218, which comprised I.C., § 49-1218, reen. 1967, ch. 120, § 1, p. 263, was repealed by S.L. 1973, ch. 260, § 2.

comprised 1947, ch. 256, § 27, p. 706; am. 1974, ch. 27, § 163, p. 811; am. 1982, ch. 95, § 95, p. 185; am. and redesign. from § 49-1527 by 1988, ch. 265, § 305, p. 549, was repealed by S.L. 2001, ch. 74, § 6.

Compiler's Notes. — This section, which

49-1218a, 49-1218b. Refund of tax — Procedures. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised I.C., §§ 49-1218a, 49-1218b,

as added by 1967, ch. 120, §§ 2, 3, p. 263, were repealed by S.L. 1973, ch. 260, § 2.

49-1219. Other proof may be required. [Repealed.]

STATUTORY NOTES

Prior Laws. — A former § 49-1219, which comprised S.L. 1933, ch. 46, § 19, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

1974, ch. 27, § 164, p. 811; am. 1982, ch. 95, § 96, p. 185; am. and redesign. from § 49-1528 by 1988, ch. 265, § 306, p. 549; am. 1989, ch. 88, § 47, p. 151, was repealed by S.L. 2001, ch. 74, § 6.

Compiler's Notes. — This section, which comprised 1947, ch. 256, § 28, p. 706; am.

49-1220. Duration of proof — When proof may be canceled or returned. — (1) The department shall upon request consent to the immediate cancellation of any certificate of insurance, or the department shall waive the requirement of filing proof, in any of the following events:

- (a) At any time after one (1) year or three (3) years from the date the proof was required, as provided in section 49-1208, Idaho Code, when, during the one (1) year or three (3) year period preceding the request, the department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the driver's

license or nonresident's operating privilege of the person by or for whom the proof was furnished; or

(b) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or

(c) In the event the person who has given proof surrenders his driver's license to the department.

(2) Whenever any person whose proof has been canceled or returned applies for a driver's license within a period of one (1) year or within a period of three (3) years from the date proof was originally required, as provided in section 49-1208, Idaho Code, the application shall be refused unless the applicant shall reestablish proof for the remainder of the one (1) year or three (3) year period. [1947, ch. 256, § 29, p. 706; am. 1974, ch. 27, § 165, p. 811; am. 1982, ch. 95, § 97, p. 185; am. and redesign. 1988, ch. 265, § 310, p. 549; am. 1989, ch. 88, § 48, p. 151; am. 1998, ch. 423, § 2, p. 1335; am. 2001, ch. 74, § 7, p. 171.]

STATUTORY NOTES

Prior Laws. — Former § 49-1220, which comprised S.L. 1933, ch. 46, § 20, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

formerly compiled as § 49-1529 and was amended and redesignated by § 310 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-1221. Transfer of registration to defeat purpose — Prohibited.

— If an owner's registration has been suspended under the provisions of this chapter, that registration shall not be transferred nor the motor vehicle in respect of which the registration was issued registered in any other name until the director is satisfied that the transfer of registration is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this chapter. Nothing in this section shall be construed to apply to or affect the registration of any motor vehicle sold by a person who, pursuant to the terms or conditions of any written instrument giving a right of repossession, has exercised that right and has repossessed that motor vehicle from a person whose registration has been suspended under the provisions of this chapter. [1947, ch. 256, § 30, p. 706; am. and redesign. 1988, ch. 265, § 311, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1221, which comprised S.L. 1933, ch. 46, § 21, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

formerly compiled as § 49-1530 and was amended and redesignated by § 311 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-1222. Surrender of Idaho driver's license. — Any person whose Idaho driver's license shall have been suspended, canceled or revoked as provided in this chapter, or whose policy of insurance or bond, when required under this chapter, shall have been canceled or terminated, or who shall neglect to furnish other proof upon request of the department, shall

immediately return his driver's license to the department. If any person shall fail to return to the department the driver's license as required, the department may direct any peace officer to secure its possession and return the driver's license to the department. At the end of the period of suspension, cancellation or revocation, the driver may apply for a duplicate driver's license, provided that the driver is eligible and has fulfilled all reinstatement requirements. [1947, ch. 256, § 31, p. 706; am. 1974, ch. 27, § 166, p. 811; am. 1982, ch. 95, § 98, p. 185; am. and redesisg. 1988, ch. 265, § 312, p. 549; am. 1989, ch. 88, § 49, p. 151; am. 1992, ch. 115, § 29, p. 345; am. 2008, ch. 18, § 5, p. 28.]

STATUTORY NOTES

Prior Laws. — Former § 49-1222, which comprised S.L. 1933, ch. 46, § 22, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Amendments. — The 2008 amendment, by ch. 18, added the last sentence.

Compiler's Notes. — This section was formerly compiled as § 49-1531 and was

amended and redesignated by § 312 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 70 of S.L. 1989, ch. 88, as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

49-1223. Exceptions from chapter. — This chapter shall not apply with respect to any motor vehicle owned by the United States, the state, any municipality or other political subdivision. [1947, ch. 256, § 33, p. 706; am. and redesisg. 1988, ch. 265, § 313, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1223, which comprised S.L. 1933, ch. 46, § 23, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was

formerly compiled as § 49-1533 and was amended and redesignated by § 313 of S.L. 1988, ch. 265 to become this section.

49-1224. Self-insurers. — (1) Any person in whose name more than twenty-five (25) motor vehicles are registered and titled in Idaho, or engaged in the operation of a railroad, street railway system or public utility subject to the regulation of the public utilities commission irrespective of the number of vehicles registered, may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department.

(2) The department may, in its discretion, issue a certificate of self-insurance and certificate of liability insurance in a form as the department prescribes when the department is satisfied that the person is possessed and will continue to be possessed of ability to pay judgments obtained against that person upon application, and providing a statement by a certified public accountant attesting the applicant's net worth is five hundred thousand dollars (\$500,000), a list of vehicles and an application fee of forty dollars (\$40.00) which shall be deposited in the state highway account.

(3) The self-insurer will be required to submit an annual financial statement showing net worth of five hundred thousand dollars (\$500,000), a list of vehicles and a forty dollar (\$40.00) issue fee to be deposited in the state highway account.

(4) Upon not less than five (5) days' notice and a hearing pursuant to the notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty (30) days after a judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance. [1947, ch. 256, § 34, p. 706; am. 1974, ch. 27, § 167, p. 811; am. 1982, ch. 95, § 99, p. 185; am. and redesisg. 1988, ch. 265, § 314, p. 549; am. 1992, ch. 115, § 30, p. 345.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Prior Laws. — Former § 49-1224, which comprised S.L. 1933, ch. 46, § 25, p. 60, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was formerly compiled as § 49-1534 and was amended and redesignated by § 314 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Valid Classifications.

The statutory classification in this section limiting self insurance to qualified fleet operators substantially furthers the legislative

objective of financial responsibility. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 316 et seq.

49-1225. Assigned risk plans. — After consultation with insurance companies authorized to issue automobile liability policies in this state, the director of insurance shall approve reasonable plans for the equitable apportionment among those companies of applicants for policies and for motor vehicle liability policies who are in good faith entitled to but are unable to procure policies through ordinary methods. When a plan has been approved, all those insurance companies shall subscribe to and participate in the plan. Any applicant for a policy, any person insured under such a plan, and any insurance company affected, may appeal to the director of insurance from any ruling or decision of the manager or committee designated to operate the plan. Any person aggrieved hereunder by any order or act of the director of insurance may, within ten (10) days after notice of it, file a petition in the district court of Ada County, Idaho, for a review. The court shall summarily hear the petition and may make an appropriate order or decree. [I.C., § 49-1134a, as added by 1955, ch. 255, § 4, p. 564; am. and redesisg. 1988, ch. 265, § 315, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1225, which comprised S.L. 1941, ch. 113, § 1, p. 200, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was

formerly compiled as § 49-1535 and was amended and redesignated by § 315 of S.L. 1988, ch. 265 to become this section.

RESEARCH REFERENCES

A.L.R. — Regulation insurer's nonacceptance, cancellation, or nonrenewal of, or increase in rate on, automobile insurance policy, based on driving record. 36 A.L.R.4th 1205.

What constitutes waiver by insured or insured's agent of required notice of cancellation of insurance policy. 86 A.L.R.4th 886.

49-1226. Chapter not to prevent other process. — Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon other processes provided by law. [1947, ch. 256, § 37, p. 706; am. and redesign. 1988, ch. 265, § 316, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1226, which comprised S.L. 1941, ch. 113, § 2, p. 200, was repealed by S.L. 1973, ch. 260, § 2.

Compiler's Notes. — This section was

formerly compiled as § 49-1537 and was amended and redesignated by § 316 of S.L. 1988, ch. 265 to become this section.

49-1227 — 49-1228. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Section 49-1227, which comprised S.L. 1933, ch. 196, § 1; am. 1955, ch. 267, § 3; am. 1972, ch. 391, § 1, was repealed by S.L. 1973, ch. 260, § 2.

Section 49-1227A, which comprised I.C., § 49-1227A, as added by 1967, ch. 346, § 1, p.

989; am. 1971, ch. 286, § 1, p. 1100, was repealed by S.L. 1972, ch. 391, § 2.

Section 49-1228, which comprised 1953, ch. 262, § 1, p. 443, was repealed by S.L. 1983, ch. 158, § 1.

49-1229. Required motor vehicle insurance. — (1) Every owner of a motor vehicle which is registered and operated in Idaho by the owner or with his permission shall continuously, except as provided in section 41-2516, Idaho Code, provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by maintenance or use of motor vehicles described therein in an amount not less than that required by section 49-117, Idaho Code, and shall demonstrate the existence of any other coverage required by this title or a certificate of self-insurance issued by the department pursuant to section 49-1224, Idaho Code, for each motor vehicle to be registered.

(2) A motor vehicle owner who prefers to post an indemnity bond with the director of the department of insurance in lieu of obtaining a policy of liability insurance may do so. Such bond shall guarantee that any loss resulting from liability imposed by law for bodily injury, death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance and use of the motor vehicle sought to be registered shall be paid within thirty (30) days. The indemnity bonds shall guarantee payment in an amount no less than fifty thousand dollars (\$50,000) for any one (1) accident of which fifteen thousand dollars (\$15,000) is for property damage, for each vehicle registered up to a maximum of one hundred twenty thousand dollars (\$120,000) for five (5) or more vehicles.

(3) Any bond given in connection with this chapter shall be, and shall be construed to be, a continuing instrument and shall cover the period for

which the motor vehicle is to be registered and operated. Such bond shall be on a form approved by the director of insurance with a surety company authorized to do business in the state.

(4) A motor carrier shall continuously provide insurance against loss resulting from liability imposed by law or by rule of the department and shall comply with the insurance requirements of section 49-1233, Idaho Code.

(5) It is an infraction punishable by a fine of seventy-five dollars (\$75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section or the provisions of section 49-1232 or 49-1428, Idaho Code, within a period of five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction. [I.C., § 49-233, as added by 1976, ch. 247, § 3, p. 848; am. 1982, ch. 95, § 36, p. 185; am. 1983, ch. 199, § 1, p. 539; am. and redesign. 1988, ch. 265, § 317, p. 549; am. 1990, ch. 432, § 4, p. 1198; am. 1998, ch. 423, § 3, p. 1335; am. 1999, ch. 81, § 18, p. 237; am. 1999, ch. 383, § 8, p. 1051.]

STATUTORY NOTES

Prior Laws. — Former § 49-1229, which comprised 1953, ch. 262, § 2, p. 443; am. 1978, ch. 295, § 1, p. 742, was repealed by S.L. 1983, ch. 158, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-233 and was amended and redesignated by § 317 of S.L. 1988, ch. 265 to become this section.

Amendments. — This section was amended by two 1999 acts, ch. 81, § 18 and ch. 383, § 8, which appear to be compatible and have been compiled together.

The 1999 amendment by ch. 81, in subsection (5), in the second sentence, inserted "or the provisions of section 49-1232 or 49-1428, Idaho Code" following "of this section."

The 1999 amendment by ch. 383, rewrote

subsection (4) which formerly read: "In addition to any motor vehicle insurance required by the provisions of this chapter, any motor carrier operating under authority of a permit issued by the public utilities commission shall comply with the insurance requirements of section 61-804, Idaho Code."

Effective Dates. — Section 10 of S.L. 1990, ch. 432 provided: "The provisions of Sections 1 through 8 of this act shall become effective on a date to be determined by the Director of the Transportation Department which date shall be enumerated in a proclamation signed by the Director and filed with the Secretary of State, but in no event later than September 1, 1990."

JUDICIAL DECISIONS

ANALYSIS

Coverage by multiple policies.

Coverage not required.

Failure to have required insurance.

First-party coverage exclusion.

Household exclusion clause void.

In general.

Minimum standards.

Coverage by Multiple Policies.

The Idaho Motor Vehicle Financial Responsibility Act (IMVFRA) requires car rental agencies to carry liability insurance on the

vehicles it rents, but it does not address the efficacy of other insurance clauses in cases where more than one insurance policy is at issue. Where the lessee is covered by two

policies and losses due to accident are less than combined limits of both applicable policies, the losses should be allocated pro rata in proportion to the amount of insurance provided by the respective policies. *Empire Fire & Marine Ins. Co. v. North Pac. Ins. Co.*, 127 Idaho 716, 905 P.2d 1025 (1995).

Coverage Not Required.

When read in conjunction with § 49-1212, this section does not require coverage of damage caused to property owned by, rented to, in charge of or transported by the insured. *McMinn v. Peterson*, 116 Idaho 541, 777 P.2d 1214 (Ct. App. 1989).

While liability insurance is mandatory, uninsured motorist coverage is not. What is mandatory under § 41-2502 is that uninsured motorist coverage be offered at the time of purchase of liability insurance. It is equally clear that this state does not mandate underinsured coverage. Underinsured coverage in this state is a matter of contract law, not public policy. *Featherston v. Allstate Ins. Co.*, 125 Idaho 840, 875 P.2d 937 (1994); *Miller v. Farmers Ins. Co.*, 108 Idaho 896, 702 P.2d 1356 (1985).

Failure to Have Required Insurance.

The magistrate did not abuse his discretion in requiring the defendant to serve two days incarceration for operating a motor vehicle without liability insurance, where the defendant knew of his licensing status for at least three months prior to the accident, knew the insurance was cancelled because of his licensing status, and knowingly failed to correct the problem until six weeks after the accident. *State v. Allison*, 112 Idaho 572, 733 P.2d 793 (Ct. App. 1987).

First-Party Coverage Exclusion.

The "in charge of," or first-party coverage exclusion of automobile liability insurance, does not contravene any public policy of protecting innocent victims of negligent and financially irresponsible motorists so as to render such exclusion invalid. *McMinn v. Peterson*, 116 Idaho 541, 777 P.2d 1214 (Ct. App. 1989).

Household Exclusion Clause Void.

A household exclusion clause in automobile insurance policies, which leaves completely unprotected those family members injured when another family or household member is at the wheel in a negligently caused automobile accident, is in violation of Idaho's compulsory insurance law and void as against public policy. *Farmers Ins. Group v. Reed*, 109 Idaho 849, 712 P.2d 550 (1985).

In General.

A person may take insurance risks with his own person or property; however, one may not take risks with other persons or their property. *McMinn v. Peterson*, 116 Idaho 541, 777 P.2d 1214 (Ct. App. 1989).

Minimum Standards.

The legislature has not established minimum standards for every insurance policy. *Porter v. Farmers Ins. Co.*, 102 Idaho 132, 627 P.2d 311 (1981).

Cited in: *Locey v. Farmers Ins. Co.*, 115 Idaho 24, 764 P.2d 101 (Ct. App. 1988); *Draper v. Draper*, 115 Idaho 973, 772 P.2d 180 (1989); *Colonial Penn Franklin Ins. Co. v. Welch*, 119 Idaho 913, 811 P.2d 838 (1991); *State v. Wheaton*, 121 Idaho 727, 827 P.2d 1174 (Ct. App. 1991).

OPINIONS OF ATTORNEY GENERAL

Cities, counties, and other political subdivisions of this state are not subject to the

automobile insurance liability laws. OAG 85-8.

49-1230. Proof of compliance. — Before any applicant required to register his motor vehicle may do so the applicant shall certify the existence of automobile liability insurance covering the motor vehicle on a form prescribed by the department. The department may immediately cancel the registration card and license plates of the vehicle upon notification that the insurance certification was not correctly represented.

An owner of a motor vehicle who ceases to maintain the insurance required in accordance with this chapter shall immediately surrender the registration card and license plates for the vehicle to the department and may not operate or permit operation of the vehicle in Idaho until insurance has again been furnished as required in accordance with this chapter and the vehicle is again registered and licensed. [I.C., § 49-234, as added by

1976, ch. 247, § 4, p. 848; am. 1982, ch. 95, § 37, p. 185; am. and redesisg. 1988, ch. 265, § 318, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1230, which comprised 1953, ch. 262, § 3, p. 443; am. 1957, ch. 212, § 2, p. 442; am. 1959, ch. 108, § 1, p. 229; am. 1974, ch. 27, § 142, p. 811; am. 1978, ch. 295, § 2, p. 742; am. 1980, ch. 262, § 1, p. 679, was repealed by S.L. 1983, ch. 158, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-234 and was amended and redesignated by § 318 of S.L. 1988, ch. 265 to become this section.

49-1231. Certificate of liability insurance — How acquired. —

(1) A certificate of liability insurance to be effective must be issued by an insurance or surety company authorized to do business in this state, by an authorized agent of such a company, or by the director of the department of insurance. The certificate of liability insurance shall be in a form prescribed by the director of the department of insurance. Upon purchase or renewal of a policy of insurance or upon request of its insured, an insurance or surety company or its authorized agent shall issue a certificate of liability insurance and present it to its insured. An insurance or surety company or its authorized agent shall not charge a fee for a certificate of liability insurance.

(2) When to the satisfaction of the director of the department of insurance it appears that a bond or cash deposit complying with the requirements of this chapter has been deposited with him, he shall issue to the motor vehicle owner a certificate of liability insurance. [I.C., § 49-244, as added by 1979, ch. 150, § 1, p. 463; am. and redesisg. 1988, ch. 265, § 319, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1231, which comprised I.C., § 49-1231, as added by 1971, ch. 184, § 3, p. 859; am. 1972, ch. 292, § 1, p. 738; am. 1978, ch. 295, § 3, p. 742; am. 1980, ch. 285, § 1, p. 754, was repealed by S.L. 1983, ch. 158, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-244 and was amended and redesignated by § 319 of S.L. 1988, ch. 265 to become this section.

49-1231A. Distribution of tax revenue. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-1231A, as added by 1971, ch. 187, § 4, p. 865; am. 1972, ch. 281, § 3, p. 699; am. 1972, ch. 293, § 1, p. 739; am.

1978, ch. 295, § 4, p. 742; am. 1979, ch. 220, § 1, p. 614; am. 1980, ch. 269, § 2, p. 706, was repealed by S.L. 1983, ch. 158, § 1.

49-1232. Certificate or proof of liability insurance to be carried in motor vehicle. — (1) A certificate or proof of liability insurance shall be in the possession of the operator of every motor vehicle or present in every motor vehicle at all times when the vehicle is operated within this state. The certificate or proof of liability insurance shall be provided for inspection to any peace officer upon request to the operator of any motor vehicle. No

person shall be convicted of violating this section if that person produces at any time prior to conviction the certificate or proof of liability insurance covering the motor vehicle that person is accused of operating in violation of this section, where the certificate or proof of liability insurance demonstrates the existence of liability insurance described in section 49-1212, Idaho Code, which was in effect at the time of occurrence of the violation.

(2) If the court has not ordered the department to suspend the driving privileges of any person convicted of a violation of the provisions of this section, the department may rescind the suspension action, only if the driver can prove by sufficient evidence that the legally required motor vehicle insurance or other required evidence of financial responsibility was in force and effect at the time of the issuance of the citation. No reinstatement fee will be assessed for rescinding the suspension action under this section.

(3) It is an infraction punishable by a fine of seventy-five dollars (\$75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction for a violation of the provisions of this section or the provisions of section 49-1229 or 49-1428, Idaho Code, within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction. [I.C., § 49-245, as added by 1979, ch. 150, § 1, p. 463; am. and redesisg. 1988, ch. 265, § 320, p. 549; am. 1990, ch. 432, § 5, p. 1198; am. 1998, ch. 275, § 1, p. 906; am. 1998, ch. 423, § 4, p. 1335; am. 1999, ch. 81, § 19, p. 237.]

STATUTORY NOTES

Prior Laws. — Former § 49-1232, which comprised 1953, ch. 262, § 5, p. 443, was repealed by S.L. 1983, ch. 158, § 1.

Amendments. — This section was amended by two 1998 acts — ch. 275, § 1, effective March 24, 1998 and ch. 423, § 4, effective January 1, 1999 — which do not conflict and have been compiled together.

The 1998 amendment by ch. 275, § 1, added subsection (2) and redesignated former subsection (2) as subsection (3).

The 1998 amendment by ch. 423, § 4, in subsection (3), inserted “for the first time” at the end of the first sentence and added the second and third sentences.

Compiler's Notes. — This section was formerly compiled as § 49-245 and was amended and redesignated by § 320 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 10 of S.L. 1990, ch. 432 provided: “The provisions of Sections 1 through 8 of this act shall become effective on a date to be determined by the director of the transportation department which date shall be enumerated in a proclamation signed by the director and filed with the secretary of state, but in no event later than September 1, 1990.”

Section 2 of S.L. 1998, ch. 275 declared an emergency. Approved March 24, 1998.

JUDICIAL DECISIONS

ANALYSIS

Authority to request inspection.
Distinct offense.
Equal protection.
Inspection not search.
No self-incrimination.
Obstruction of duty of police officer.
Police power.
Production for inspection.

Right to counsel.
Substantive due process.
Validity.

Authority to Request Inspection.

The police are not vested with unrestrained discretion to detain motor vehicle operators to request that they display certificates of liability insurance. Rather, in order for the "seizure" to be reasonable, a stop must be supported by an articulable and reasonable suspicion that the vehicle is being driven contrary to the traffic laws or that either the vehicle or an occupant is subject to detention in connection with violation of other laws. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

Distinct Offense.

Since the offense of driving without privileges and the offense of driving without insurance are composed of separate and distinct components, where defendant paid penalty relating to failure to carry proof of insurance, he could still be subject to the punishment for driving without privileges. *State v. Longstreet*, 130 Idaho 202, 938 P.2d 1240 (1997).

Equal Protection.

The general classification made by this section between motorists and nonmotorists regarding who must provide proof on request of liability insurance does not offend equal protection under the Fourteenth Amendment. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

Inspection Not Search.

A police officer's request to see a certificate of liability insurance is not a "search" governed by the Fourth Amendment. The insurance certificate, like a driver's license or a certificate of motor vehicle registration, is statutorily mandated evidence of compliance with state-imposed conditions for operating a motor vehicle upon the public highways, and no legitimate privacy interest inheres in the documents themselves. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

No Self-Incrimination.

This section does not compel incriminating testimony; it merely requires production of a nonincriminating document. Therefore, the use of a motorist's response, or failure to respond, to a police request for proof of liability insurance raises no Fifth Amendment question. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

Obstruction of Duty of Police Officer.

Where defendant was exceeding the speed limit, the stop was valid and did not constitute an unreasonable search and the officer's

request for defendant's license, registration and proof of insurance was a lawful and authorized act, and her refusal to produce those documents constituted obstructing and delaying an officer in the performance of a duty of his office. *State v. George*, 127 Idaho 693, 905 P.2d 626 (1995).

Police Power.

This section requiring proof of motor vehicle liability insurance, falls squarely within the constitutionally recognized scope of a state's police power. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

Driver's license and vehicle registration requirements constitute a legitimate exercise of the state's police power; licensing drivers is a means of determining that vehicle operators have acquired a minimal standard of competence; requiring driver competence is a public purpose within the police power of the state, and the licensing procedure is a reasonable attempt to accomplish that purpose. The vehicle registration requirement also reasonably furthers protection of public health, safety and welfare and, as such, is a proper exercise of the state's police power. *Gordon v. State*, 108 Idaho 178, 697 P.2d 1192 (Ct. App.), appeal dismissed, 474 U.S. 803, 106 S. Ct. 35, 88 L. Ed. 2d 29 (1985).

Production for Inspection.

A police officer who observed a white light on the rear of a forward-moving vehicle reasonably could have suspected a defective tail lamp and would have been entitled briefly to detain the vehicle for further inquiry. Once the stop had occurred, nothing in the Fourth Amendment would preclude the officer from routinely asking the motorist to exhibit his driver's license, the vehicle registration, and an insurance certificate. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

Right to Counsel.

Defendant's failure to produce proof of liability insurance would not require the court to appoint counsel because the offense did not carry a sufficient penalty to classify it as a "serious" offense within § 19-852. *State v. Hardman*, 120 Idaho 667, 818 P.2d 782 (Ct. App. 1991).

Substantive Due Process.

A legislative requirement that motorists carry liability insurance falls within the social and economic domain reserved for the deferential judicial standard of review; it is not only reasonably conceivable but manifest that this requirement serves the objective of reducing the economic hardship suffered by

persons injured, or whose property is damaged, by financially irresponsible operators of motor vehicles. Requiring motorists to carry proof of such insurance, and to display it upon request further secures the accomplishment of this purpose; accordingly, this section does not infringe upon substantive due process. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

Validity.

The laws requiring an operator of a motor

vehicle to carry proof of liability insurance in his motor vehicle and to register the motor vehicle annually are valid laws enacted by the state. *State v. Gibson*, 108 Idaho 202, 697 P.2d 1216 (Ct. App. 1985).

Cited in: *State v. Fife*, 115 Idaho 879, 771 P.2d 543 (Ct. App. 1989); *State v. Bissett*, 116 Idaho 477, 776 P.2d 1196 (Ct. App. 1989); *State v. Reed*, 129 Idaho 503, 927 P.2d 893 (Ct. App. 1996).

49-1233. Motor carrier financial responsibility — Exemptions —

Board rules. — (1) Before registering any motor carrier for transporting persons or property, the department shall require verification from the motor carrier that it has obtained and has in effect liability and property damage insurance, or has a surety bond written by an insurer licensed to furnish such insurance in this state or by a surety company authorized to write surety bonds in this state, or who qualifies as a self-insurer pursuant to the provisions of section 49-1224, Idaho Code.

(2) A motor carrier, unless exempted under the provisions of subsection (4) of this section, shall file with the department proof of liability and property damage insurance, surety bond, or proof of self-insurance in such form as the board shall prescribe. It shall be kept in full force and effect, and failure to do so shall be cause for revocation of the registration of the motor carrier.

(3) Insurance carriers shall file a notice with the department at least thirty (30) days before the effective date of any termination of insurance or surety bond or of a reduction in insurance below the amounts set by the board.

(4) Exemptions. The following intrastate motor carriers shall not be exempt from coverage in the amounts required by the provisions of section 49-117, Idaho Code, but shall be exempt from the motor carrier liability and property damage insurance coverage required herein by rule of the board:

(a) Motor vehicles employed solely in transporting school children and teachers to or from school or to and from approved school activities, when the motor vehicles are either:

(i) Wholly owned and operated by such school, or

(ii) Leased or contracted by such school and the motor vehicle is not used in the furtherance of any other commercial enterprise; or

(b) Taxicabs or other motor vehicles performing a licensed or franchised taxicab service, having a seating capacity of not more than seven (7) passengers within twenty-five (25) miles of the boundaries of the licensing or franchising jurisdiction; or

(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or airports or other common carrier stations; or

(d) Motor vehicles controlled and operated by any farmer when used in the transportation of his farm equipment or in the transportation of supplies to his farm; or

(e) Motor vehicles used exclusively in the distribution of newspapers; or

- (f) Transportation of persons or property by motor vehicle at an airport when incidental to transportation by aircraft or other transportation in substitution for scheduled airline service when the carrier cannot provide the scheduled service because of weather and/or mechanical conditions and the transportation is arranged for and paid by the affected airlines; or
- (g) Transportation of persons and/or property, including mobile and modular houses manufactured with wheels and undercarriage as part of the substructure, but not transportation of other houses, buildings or structures within a municipality or territory contiguous to such municipality if such operation outside such municipality be a part of a service maintained within the limits of the municipality with the privilege of transfer of passengers to vehicles within the municipality without additional fare; or
- (h) The transportation of agricultural products including fresh fruits and vegetables, livestock, livestock feed or manure; or
- (i) Motor propelled vehicles for the sole purpose of carrying United States mail or property belonging to the United States; or
- (j) Motor carriers transporting products of the forest; or
- (k) Motor carriers transporting products of the mine including sand, gravel and aggregates thereof, except petroleum products; or
- (l) Motor carriers transporting household goods as defined by the federal surface transportation board; or
- (m) Vehicles properly equipped, designed and customarily used for the transportation of disabled or abandoned vehicles by means of a crane, hoist, tow bar, dolly or roll bed, which vehicle shall be known as a "wrecker (tow truck)."

(5) The board shall promulgate rules to implement the provisions of this section, establishing by rule the amount of liability coverage to be carried for personal injury suffered by one (1) person while being transported in any vehicle, any additional amounts for all persons receiving personal injury, and such amount for damage to the property of any person other than the insured. The board is further authorized to adopt temporary rules as necessary. [I.C., § 49-1233, as added by 1999, ch. 383, § 9, p. 1051.]

STATUTORY NOTES

Prior Laws. — Former § 49-1233 which comprised of 1988, ch. 265, § 321, p. 549, was repealed by S.L. 1990, ch. 432, § 6, effective on a date to be determined as provided in § 10 of S.L. 1990, ch. 432.

49-1234 — 49-1236. Special fuel use tax — Purpose — Definitions — Tax imposed — Records — Returns — Refunds and credits. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1953, ch. 262, §§ 7-9, p. 443; am. 1961, ch. 200, § 1, p. 307; am. 1978, ch. 295, §§ 6, 7, p. 742; 1981, ch. 290, § 10, p. 597, were repealed by S.L. 1983, ch. 158, § 1.

49-1237. Procedures for claiming refunds or credits. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1953, ch. 262, § 10, p. 443, was repealed by S.L. 1978, ch. 295, § 8.

49-1238 — 49-1240. Action for recovery of taxes illegally or erroneously collected — Administration. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1953, ch. 262, §§ 11, 12, 14, p. 443; am. 1978, ch. 295, § 9, p. 742; 1981, ch. 290, § 9, p. 597, were repealed by S.L. 1983, ch. 158, § 1.

Sections 49-1238 — 49-1240 were also repealed by S.L. 1983, ch. 91, § 1, effective July 1, 1983. However, ch. 91 was repealed by § 2 of S.L. 1983 (Ex. Sess.), ch. 1, effective July 1, 1983.

49-1241. Disposition of funds. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised S. L. 1953, ch. 262, § 15, p. 443; am. 1963, ch. 174, § 2, p. 500; am. 1971, ch.

187, § 5, p. 865; am. 1972, ch. 281, § 4, p. 699, was repealed by S.L. 1978, ch. 295, § 10.

49-1241a, 49-1242. Elimination of gas tax refunds on non-highway use by recreational vehicles — Judicial review and appeals. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1953, ch. 262, § 16, p. 443; 1972, ch. 281, § 5, p. 669; am. 1978, ch. 295, § 11, p. 742, were repealed by S.L. 1983, ch. 158, § 1.

Sections 49-1241a and 49-1242 were also repealed by S.L. 1983, ch. 91, § 1, effective July 1, 1983. However, ch. 91 was repealed by § 2 of S.L. 1983 (Ex. Sess.), ch. 1, effective July 1, 1983.

CHAPTER 13

ACCIDENTS

SECTION.

- 49-1301. Accidents involving damage to vehicle.
- 49-1302. Duty to give information in accident involving damage to a vehicle.
- 49-1303. Duty upon striking unattended vehicle.
- 49-1304. Duty upon striking fixtures upon or adjacent to a highway.
- 49-1305. Immediate notice of accidents.
- 49-1306. Written reports of accidents.
- 49-1307. Accident report forms.
- 49-1308. Filing false accident reports.

SECTION.

- 49-1309. Coroners to report.
- 49-1310. Garages to report.
- 49-1311. Accident reports.
- 49-1312. Department to tabulate and analyze accident reports.
- 49-1313. Any incorporated city may require accident reports.
- 49-1314. Testing blood of persons killed in accidents.
- 49-1315. Report and investigation of traffic hazard causing accident.

SECTION.

49-1316. Erection of memorials to persons
killed in traffic accidents.

49-1301. Accidents involving damage to vehicle. — (1) The driver of any vehicle involved in an accident, either on public or private property open to the public, resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop the vehicle at the scene of the accident, or as close as possible, and shall immediately return to, and in every event shall remain at, the scene of the accident until he has fulfilled the requirements of law.

(2) For any accident which occurs on a divided, controlled-access highway or interstate highway of the state highway system, a stop as required by subsection (1) of this section shall be made by moving the vehicle into a safe refuge on the shoulder, emergency lane or median whenever such moving of a vehicle may be done safely and the vehicle is capable of being normally and safely driven, does not require towing, and may be operated under its own power in its customary manner without further damage or hazard to itself, to the traffic elements or to the roadway.

(a) For any other highway, a stop as required by subsection (1) of this section shall be made without obstructing traffic more than is necessary.

(b) The driver or any other person who has removed a motor vehicle from the main-traveled part of the road as provided in this subsection before the arrival of a law enforcement officer shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle pursuant to this subsection.

(3) Any person failing to stop or to comply with the requirements under these circumstances shall be guilty of a misdemeanor.

(4) The department shall revoke for a period of one (1) year the driver's license, privileges or permit to drive, or the nonresident operating privilege, of any person convicted of a violation of the provisions of subsection (1) of this section.

(5) Nothing herein shall be construed to interfere with the duty of any city, county or state police officer to investigate and detect crime and enforce the penal, traffic or highway laws of this state or any political subdivision. [1953, ch. 273, § 40, p. 478; am. 1987, ch. 208, § 3, p. 440; am. and redesign. 1988, ch. 265, § 322, p. 549; am. 1989, ch. 88, § 50, p. 151; am. 1992, ch. 115, § 31, p. 345; am. 1998, ch. 110, § 29, p. 375; am. 2005, ch. 310, § 2, p. 962.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1002 and was amended and redesignated by § 322 of S.L. 1988, ch. 265 to become this section.

Former § 49-1301 was amended and reded-

ignated as § 67-2904 by § 582 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 324 et seq.

49-1302. Duty to give information in accident involving damage to a vehicle. — (1) The driver of any vehicle involved in an accident resulting in damage to any vehicle which is driven or attended by any person shall, at the scene of the accident, give his name, address and, if available, at the scene of the accident, he shall exhibit his driver's license, proof of registration and certificate or proof of liability insurance to the person struck or to the driver or person attending any vehicle collided with.

(2) If a police officer is present, that officer shall make all reasonable efforts to facilitate the exchange of the required information provided by subsection (1) of this section between the parties involved.

(3) Any person who willfully fails to provide the information required to be given by subsection (1) of this section or who knowingly provides false information of the type required by this section shall be guilty of a misdemeanor. [1953, ch. 273, § 41, p. 478; am. 1977, ch. 238, § 1, p. 715; am. 1987, ch. 208, § 4, p. 440; am. and redesign. 1988, ch. 265, § 323, p. 549; am. 1989, ch. 88, § 51, p. 151; am. 1999, ch. 156, § 1, p. 434.]

STATUTORY NOTES

Cross References. — Penalty for misdemeanor where none prescribed, § 19-317.

Prior Laws. — Former § 49-1302, which comprised S.L. 1929, ch. 165, § 2, p. 298; I.C.A., § 48-802; am. 1933, ch. 18, § 2, p. 23; am. 1939, ch. 225, § 2, p. 498; am. 1941, ch.

25, § 1, p. 49; am. 1975, ch. 119, § 1, p. 249 was repealed by S.L. 1980, ch. 266, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-1003 and was amended and redesignated by § 323 of S.L. 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Information.
Knowledge.

Information.

The information charging accused with failure to stop his motor vehicle at the scene of an accident and to render aid and furnish information after striking and injuring two persons was defective, since it failed to charge knowledge on the part of accused which is an essential element of the offense. *State v. Parish*, 79 Idaho 75, 310 P.2d 1082 (1957).

Knowledge.

Although intent is an essential element of the crime, knowledge on the part of the accused of the accident resulting in the injury to

another person requiring accused involved therein to immediately stop his vehicle and return to, and remain at, the scene of the accident until he has given his name, address and registration number and rendered aid to the injured does not require a showing by the state, by direct testimony, that the accused actually knew that the motor vehicle he was driving had struck someone. All of the facts and circumstances indicative of knowledge of such an accident may be considered by the jury in its determination of the fact of knowledge. *State v. Parish*, 79 Idaho 75, 310 P.2d 1082 (1957).

49-1303. Duty upon striking unattended vehicle. — The driver of any vehicle which collides with any unattended vehicle shall immediately stop, and then and there either locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle, or shall leave in a conspicuous place in or on the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking, along with a

statement of the circumstances. [1953, ch. 273, § 42, p. 478; am. and redesisg. 1988, ch. 265, § 324, p. 549; am. 1999, ch. 146, § 1, p. 416.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 324 of S.L. formerly compiled as § 49-1004 and was 1988, ch. 265 to become this section.

49-1304. Duty upon striking fixtures upon or adjacent to a highway. — The driver of any vehicle involved in an accident resulting in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of the property of the fact, of his name and address, the name of his insurance agent or company if he has automobile liability insurance, the motor vehicle registration number of the vehicle he is driving, and upon request and if available exhibit his driver's license. [1953, ch. 273, § 43, p. 478; am. 1976, ch. 55, § 2, p. 192; am. 1977, ch. 238, § 2, p. 715; am. and redesisg. 1988, ch. 265, § 325, p. 549; am. 1989, ch. 88, § 52, p. 151.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1005 and was amended and redesignated by § 325 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 70 of S.L. 1989, ch. 88, as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

49-1305. Immediate notice of accidents. — (1) The driver of a vehicle involved in an accident resulting in injury to or death of any person, or damage to the property of any one (1) person in excess of one thousand five hundred dollars (\$1,500) shall immediately, by the quickest means of communication, give notice of the accident to the local police department if the accident occurs within a city, otherwise to the office of the county sheriff or the nearest office of the state police.

(2) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required herein, and there was another occupant in the vehicle at the time of the accident capable of doing so, the occupant shall give or cause to be given the notice not given by the driver. [1953, ch. 273, § 44, p. 478; am. 1969, ch. 51, § 1, p. 140; am. 1976, ch. 55, § 3, p. 192; am. and redesisg. 1988, ch. 265, § 326, p. 549; am. 1990, ch. 69, § 1, p. 151; am. 2005, ch. 269, § 1, p. 832.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1006 and was amended and redesignated by § 326 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 2 of S.L. 2005, ch. 269 provided that the act should take effect on and after January 1, 2006.

JUDICIAL DECISIONS

DECISIONS UNDER PRIOR LAW

ANALYSIS

Failure to stop after accident.
Reporting accident.

Failure to Stop After Accident.

Evidence of the failure of the driver of a motor vehicle to stop at the scene of an accident, in which he was involved, and to report accident to the authorities is admissible in an action for death, arising out of the automobile collision, as a circumstance tending to show consciousness on driver's part of his responsibility for the accident. *Shaddy v. Daley*, 58 Idaho 536, 76 P.2d 279 (1938).

dence as to whether defendant failed to stop and failed to report accident to authorities, as required by law, was conflicting, requested instruction that his failure to stop and to report accident was immaterial was properly refused, since evidence of defendant's actions was admissible as tending to show consciousness on his part of his responsibility. *Shaddy v. Daley*, 58 Idaho 536, 76 P.2d 279 (1938).

Reporting Accident.

In an action for the death of a minor resulting from an automobile collision, where evi-

RESEARCH REFERENCES

C.J.S. — 60 C.J.S., Motor Vehicles, § 41.

49-1306. Written reports of accidents. — (1) Every law enforcement officer, who in the regular course of duty investigates a motor vehicle accident, either at the time of and at the scene of the accident, or thereafter by interviewing participants or witnesses, shall within twenty-four (24) hours after completing the investigation forward a written report of the accident to the department.

(2) Written reports required to be forwarded by law enforcement officers and the information contained in them shall not be privileged or held confidential. [1953, ch. 273, § 45, p. 478; am. 1969, ch. 51, § 2, p. 140; am. 1976, ch. 55, § 4, p. 192; am. and redesign. 1988, ch. 265, § 327, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 327 of S.L. formerly compiled as § 49-1007 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Admissibility of Evidence.

Report filed by insurance company was not inadmissible in evidence by virtue of any statutory provisions and, although it was admissible in evidence as an admission of coverage and, thus, of driver's driving with permission of the owner, such admissions were not conclusive and when other evidence showed that the admission was a mistaken one it should have been disregarded in the interest of arrival at the truth and the actual

facts. *C.H. Elle Constr. Co. v. Western Cas. & Sur. Co.*, 294 F.2d 459 (9th Cir. 1961).

Evidence of the failure of the driver of a motor vehicle to stop at the scene of an accident, in which he was involved, and to report accident to the authorities, is admissible in an action for death, arising out of an automobile collision, as a circumstance tending to show consciousness on driver's part of his responsibility for the accident. *Shaddy v. Daley*, 58 Idaho 536, 76 P.2d 279 (1938).

49-1307. Accident report forms. — (1) The department shall prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for written accident reports required by this chapter, appropriate with respect to the persons required to make those reports and the purposes to be served. Written reports shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicles involved.

(2) Every accident report required to be made in writing shall be made on the appropriate form approved by the department, and shall contain all of the information required on the form unless not available. [1953, ch. 273, § 47, p. 478; am. 1974, ch. 27, § 139, p. 811; am. 1976, ch. 55, § 5, p. 192; am. and redesisg. 1988, ch. 265, § 328, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 328 of S.L. formerly compiled as § 49-1009 and was 1988, ch. 265 to become this section.

49-1308. Filing false accident reports. — It is unlawful for any person to file an accident report knowing the same to be false. [I.C., § 49-106A, as added by 1969, ch. 167, § 1, p. 501; am. and redesisg. 1988, ch. 265, § 329, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 329 of S.L. formerly compiled as § 49-106A and was 1988, ch. 265 to become this section.

49-1309. Coroners to report. — Every coroner or other official performing like functions shall, on or before the 10th day of each month, report in writing to the department the death of any person within his jurisdiction during the preceding calendar month as the result of a traffic accident, giving the time and place of the accident and the circumstances relating to it. [1953, ch. 273, § 48, p. 478; am. and redesisg. 1988, ch. 265, § 330, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 330 of S.L. formerly compiled as § 49-1011 and was 1988, ch. 265 to become this section.

49-1310. Garages to report. — The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which a report is required as provided in section 49-1306, Idaho Code, or struck by any bullet, shall report to the local police department if the garage is located within a city, otherwise to the office of the county sheriff or the nearest office of the state police within forty-eight (48) hours after the motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or

operator of the vehicle. [1953, ch. 273, § 49, p. 478; am. and redesign. 1988, ch. 265, § 331, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 331 of S.L. formerly compiled as § 49-1012 and was 1988, ch. 265 to become this section.

49-1311. Accident reports. — All accident reports made by garages shall be without prejudice to the individual reporting and shall be subject to disclosure according to chapter 3, title 9, Idaho Code, and shall be used for accident prevention purposes. [1953, ch. 273, § 50, p. 478; am. 1970, ch. 41, § 1, p. 88; am. 1976, ch. 55, § 6, p. 192; am. and redesign. 1988, ch. 265, § 332, p. 549; am. 1990, ch. 213, § 70, p. 480.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 332 of S.L. formerly compiled as § 49-1013 and was 1988, ch. 265 to become this section.

49-1312. Department to tabulate and analyze accident reports. — The department shall tabulate and may analyze all accident reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number of circumstances of traffic accidents. [1953, ch. 273, § 51, p. 478; am. and redesign. 1988, ch. 265, § 333, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 333 of S.L. formerly compiled as § 49-1014 and was 1988, ch. 265 to become this section.

49-1313. Any incorporated city may require accident reports. — Any incorporated city may by ordinance require that the driver of a vehicle involved in an accident also file with a designated city department a report of an accident or a copy of any report required to be filed with the department. All such reports shall be subject to disclosure according to chapter 3, title 9, Idaho Code. [1953, ch. 273, § 52, p. 478; am. and redesign. 1988, ch. 265, § 334, p. 549; am. 1990, ch. 213, § 71, p. 480.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 334 of S.L. formerly compiled as § 49-1015 and was 1988, ch. 265 to become this section.

49-1314. Testing blood of persons killed in accidents. — (1) The director of the Idaho state police, jointly with the various county coroners, shall provide a system and procedure whereby all coroners in Idaho shall obtain blood samples from all pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle.

(2) All investigating peace officers shall report traffic fatalities to the county coroner or follow the procedure established by the joint action of the director of the Idaho state police and the various coroners.

(3) The blood sample, or result of blood testing, with any information as may be required, shall be delivered to the director of the Idaho state police or his designee. Upon receipt of the sample the director will cause all tests as may be required to determine the amount of alcohol, narcotics and dangerous drugs that may be contained in the sample.

(4) The results of such tests shall be used for statistical purposes and shall be subject to disclosure according to chapter 3, title 9, Idaho Code. [1969, ch. 253, § 1, p. 785; am. 1970, ch. 131, § 1, p. 307; am. 1973, ch. 79, § 1, p. 126; am. 1974, ch. 23, § 161, p. 633; am. 1988, ch. 47, § 5, p. 54; am. and redesign. 1988, ch. 265, § 335, p. 549; am. 1989, ch. 310, § 26, p. 769; am. 1990, ch. 213, § 72, p. 480; am. 2000, ch. 469, § 119, p. 1450; am. 2002, ch. 44, § 1, p. 98.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1016 and was amended and redesignated by § 335 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 34 of S.L. 1989, ch. 310 declared an emergency and provided that the act would become effective retroactively to January 1, 1989. Approved April 5, 1989.

Section 111 of S.L. 1990, ch. 213 as amended by § 16 of S.L. 1991, ch. 329 provided that §§ 3 through 45 and 48 through 110 of the act should take effect July 1, 1993 and that §§ 1, 2, 46 and 47 should take effect July 1, 1990.

JUDICIAL DECISIONS

Coroner's Blood Sample Tests.

This section requires that blood samples from accident victims be delivered to the director of the department of health and welfare [now Idaho state police] or his designee, in order that the department run tests on these samples for statistical use only, but it does not address the issue of what use may be

made of the results of other blood sample tests ordered by a coroner who is acting in the course of his statutory duties as a coroner; therefore, this section did not preclude admission of the blood alcohol test performed on the accident victim in the wrongful death action. *Stattner v. City of Caldwell*, 111 Idaho 714, 727 P.2d 1142 (1986).

49-1315. Report and investigation of traffic hazard causing accident. — Whenever any investigation or judicial action stemming from a traffic accident which resulted in death or injury to any person or damage to any property in an apparent extent of five hundred dollars (\$500) or more results in a finding that a physical traffic hazard caused or was responsible for the traffic accident, the investigating traffic enforcement officer or presiding judicial officer shall submit a written statement of his finding to the safety engineer of the department and to the board of county commissioners of the county in which the accident occurred. Within sixty (60) days, the department shall examine and report on the alleged traffic hazard. Copies of the report shall be sent to the reporting traffic enforcement officer or presiding judicial officer who originated the action and the board of county commissioners of the county in which the accident occurred. The report by the department shall contain the engineer's explanation of the

hazard and shall propose what can be done to alleviate the hazard or what has been done to alleviate the hazard, or information to fully explain why no action has been taken or is anticipated. [1970, ch. 256, § 1, p. 682; am. 1974, ch. 12, § 84, p. 61; am. and redesisg. 1988, ch. 265, § 336, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1017 and was amended and redesignated by § 336 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-1316. Erection of memorials to persons killed in traffic accidents. — As a means of promoting safety upon the highways of this state, the transportation department, the state police and other law enforcement officers shall permit relatives or friends of a person killed in a traffic accident upon a highway of the state, with the consent of the next of kin of the deceased, to erect a traffic accident memorial in memory of the decedent. The traffic accident memorial shall be erected adjacent to the portion of the highway where the accident occurred so that the traffic accident memorial serves as a reminder that a fatality occurred on that stretch of highway and that public safety will thereby be enhanced. The transportation department shall promulgate rules to implement the provisions of this section, to provide size limitations the traffic accident memorial must conform to and to retain jurisdiction over areas where traffic accident memorials are placed. [I.C., § 49-1316, as added by 1992, ch. 45, § 1, p. 147; am. 2001, ch. 45, § 1, p. 84.]

CHAPTER 14

TRAFFIC — ENFORCEMENT AND GENERAL PROVISIONS

SECTION.

- 49-1401. Reckless driving.
- 49-1402. Parties to a crime.
- 49-1403. Offenses by persons owning or controlling vehicles.
- 49-1404. Fleeing or attempting to elude a peace officer — Penalty.
- 49-1405. Arrests for serious offenses.
- 49-1406. When person must be taken immediately before a magistrate.
- 49-1407. When peace officer has option to take person before a magistrate.
- 49-1408. Arrest of nonresident.
- 49-1409. Issuance of traffic citation.
- 49-1410. Authority of officer to issue citation at scene of accident.
- 49-1411. Appearance before magistrate — Procedure.
- 49-1412. Release of defendant when magistrate not available.
- 49-1413. Procedure prescribed not exclusive.
- 49-1414. Conviction for traffic violation not to affect credibility of witness.

SECTION.

- 49-1415. Illegal cancellation of traffic citation — Audit of citation records.
- 49-1416. Record of traffic cases — Report of convictions to department.
- 49-1417. Provisions of sections uniform throughout state.
- 49-1418. Authorizing seizure of vessels, motor and other vehicles — Prohibiting defacing, altering or obliterating numbers — Sales prohibited.
- 49-1419. Obedience to traffic direction.
- 49-1420. Interference with official traffic control devices or railroad signs or signals.
- 49-1421. Driving on divided highways — Restricted access.
- 49-1422. Overtaking and passing school bus.
- 49-1423. Investigation of reported violation of failing to obey school bus warning devices.
- 49-1424. Racing on public highways.
- 49-1425. Railroad trains not to unnecessarily block crossings.

SECTION.

49-1426. Pedestrians under influence of alcohol or drugs.

49-1427. Vehicles transporting explosives.

SECTION.

49-1428. Financial responsibility.

49-1429. False certificate.

49-1430. Forged certificate.

49-1401. Reckless driving. — (1) Any person who drives or is in actual physical control of any vehicle upon a highway, or upon public or private property open to public use, carelessly and heedlessly or without due caution and circumspection, and at a speed or in a manner as to endanger or be likely to endanger any person or property, or who passes when there is a line in his lane indicating a sight distance restriction, shall be guilty of reckless driving and upon conviction shall be punished as provided in subsection (2) of this section.

(2) Every person who pleads guilty to or is found guilty of reckless driving for the first time is guilty of a misdemeanor and may be sentenced to jail for not more than six (6) months or may be fined not more than one thousand dollars (\$1,000), or may be punished by both fine and imprisonment. Every person who pleads guilty to or is found guilty of reckless driving, who has previously been found guilty of or has pled guilty to reckless driving, or any substantially conforming foreign criminal violation within five (5) years, notwithstanding the form of the judgment(s) or withheld judgment(s), is guilty of a misdemeanor and may be sentenced to jail for not more than one (1) year or may be fined not more than two thousand dollars (\$2,000), or may be punished by both fine and imprisonment. The department shall suspend the driver's license or privileges of any such person as provided in section 49-326, Idaho Code.

(3) Inattentive driving shall be considered a lesser offense than reckless driving and shall be applicable in those circumstances where the conduct of the operator has been inattentive, careless or imprudent, in light of the circumstances then existing, rather than heedless or wanton, or in those cases where the danger to persons or property by the motor vehicle operator's conduct is slight. Every person convicted of inattentive driving under this section shall be guilty of a misdemeanor and may be sentenced to jail for not more than ninety (90) days or may be fined not more than three hundred dollars (\$300), or may be punished by both fine and imprisonment. [1953, ch. 273, § 55, p. 478; am. 1969, ch. 458, § 4, p. 1269; am. 1976, ch. 201, § 2, p. 726; am. 1978, ch. 53, § 1, p. 99; am. 1980, ch. 165, § 2, p. 353; am. and redesisg. 1988, ch. 265, § 337, p. 549; am. 1989, ch. 88, § 53, p. 151; am. 1992, ch. 115, § 32, p. 345; am. 2005, ch. 119, § 1, p. 379; am. 2006, ch. 71, § 21, p. 216.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 71, in subsection (2), substituted "one thousand dollars (\$1,000)" for "five hundred dollars (\$500)" and "two thousand dollars (\$2,000)" for "one thousand dollars (\$1,000)."

Compiler's Notes. — This section was

formerly compiled as § 49-1103 and was amended and redesignated by § 337 of S.L. 1988, ch. 265 to become this section.

Former § 49-1401 was amended and redesignated as § 49-2415 by § 479 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

JUDICIAL DECISIONS

ANALYSIS

Constitutionality.
Double jeopardy.
Evidence.
Included offense.
Information.
Instructions.
Lesser included offenses.
Procedure.
Reasonable suspicion for lawful stop.

Constitutionality.

The statute defines reckless driving, in that it sets forth in general terms the necessary elements of the offense. The statute is not unconstitutional in this respect. *State v. Henry*, 83 Idaho 167, 359 P.2d 514 (1961).

Double Jeopardy.

Defendant's previous conviction and sentence for inattentive driving, arising from the same driving incident, barred the prosecution for DUI. *State v. Smith*, 121 Idaho 20, 822 P.2d 539 (Ct. App. 1991).

Evidence.

Evidence that defendant drove from 70 to 105 miles per hour at night on a highway 22 feet wide, through open range country where cattle were known to wander upon the highway, the pavement being rough with the edges jagged from erosion, was sufficient to convict defendant of reckless driving even though the evidence also showed that defendant kept to his proper traffic lane without swerving and was able to stop without skidding behind a truck stopped for a roadblock. *State v. Pruett*, 91 Idaho 537, 428 P.2d 43 (1967).

Evidence that defendant drove forty-five miles an hour in a twenty-five-mile-an-hour zone on a street thirty-five feet wide, at eleven o'clock at night, when nearby theaters customarily let out and patrons emerged to go to their cars, and "squealed" his tires in making a U-turn was sufficient to sustain a conviction for reckless driving. *State v. Hanson*, 92 Idaho 665, 448 P.2d 758 (1968).

The jury was entitled to consider the officer's testimony that defendant was operating his motorcycle at high speeds on the wrong side of the road while turning blind corners and cresting blind hills and the conviction for reckless driving was therefore affirmed. *State v. Bedard*, 120 Idaho 869, 820 P.2d 1226 (1991).

Included Offense.

Where information charges crime of negligent homicide committed by means of reckless driving and driving while under the influence of intoxicating liquor, those offenses are necessarily included in the charge of negligent homicide. *State v. Anderson*, 82 Idaho 293, 352 P.2d 972 (1960).

Where police stop a motorist who has been driving while under the influence of alcohol, it is clear that the more dangerous conduct which the legislature sought to prevent has already occurred and that the motorist's continuing control over his stopped vehicle is not an additional event, but is merely incidental to his act of driving; therefore, the state cannot circumvent the rules against double jeopardy by attempting to carve a defendant's single course of conduct into separate "temporal events" in order to charge the defendant with both DUI and erratic driving. *State v. Smith*, 121 Idaho 20, 822 P.2d 539 (Ct. App. 1991).

Information.

Where the complaint charged defendant with reckless driving in the language of the statute but there was nothing in the complaint to indicate what acts of the defendant constituted alleged reckless driving, the order of the court sustaining the demurrer was correct. *State v. Henry*, 83 Idaho 167, 359 P.2d 514 (1961).

Instructions.

Giving of instructions on criminal offenses not submitted to the jury as included offenses was error, since such instructions were not applicable to the issues submitted. *State v. Cox*, 82 Idaho 150, 351 P.2d 472 (1960).

Lesser Included Offenses.

Where the charges against defendant, set forth in the information, did not contain any language indicating that defendant's efforts to elude an officer and recklessly drive his vehicle were the manner by which defendant

violated § 18-8006, the offenses of fleeing or attempting to elude a peace officer and reckless driving were not lesser included offenses of aggravated driving while under the influence of alcohol. *State v. Rosencrantz*, 130 Idaho 666, 946 P.2d 628 (1997).

Procedure.

A violation of this section occurring within the limits of a city could not be prosecuted in the name of the city. *City of Sandpoint v. Butigan*, 91 Idaho 855, 433 P.2d 125 (1967).

Reasonable Suspicion for Lawful Stop.

Because a deputy's observations provided the reasonable suspicion necessary for a lawful traffic stop under subsection (3) of this section and § 49-630(1), defendant's motion to suppress the evidence of his intoxication

was correctly denied. *State v. Anderson*, 134 Idaho 552, 6 P.3d 408 (Ct. App. 2000).

In prosecution for driving under the influence, trial court erred in suppressing evidence obtained after police officers approached stopped vehicle which they had just observed driving without headlights and with its passenger door open and, after observing defendant curled up on the floor behind the front seats, opened door and ordered defendant to exit vehicle, because at that point, the officers possessed a reasonable suspicion to detain defendant driver for the traffic violations they had witnessed. *State v. Irwin*, 143 Idaho 102, 137 P.3d 1024 (Ct. App. 2006).

Cited in: *State v. Adams*, 108 Idaho 215, 697 P.2d 1229 (Ct. App. 1985); *State v. Parker*, 141 Idaho 775, 118 P.3d 107 (2005).

DECISIONS UNDER PRIOR LAW

ANALYSIS

Constitutionality.

Evidence.

Guest guilty of contributory negligence.

Information.

Instructions.

Presumption of negligence.

"Reckless disregard" defined.

Speed.

Constitutionality.

Session Laws 1951, chapter 256 (formerly compiled as § 49-562A, but repealed by Session Laws 1953, chapter 273, § 192), in making it unlawful for any person to operate a motor vehicle in a negligent manner over and along the public highways of the state, was held to be void and unconstitutional in that no comprehensive standard of negligent driving was included in that statute. *State v. Pigge*, 79 Idaho 529, 322 P.2d 703 (1957).

Evidence.

Defendant charged with involuntary manslaughter violated laws of the roads in at least three alleged particulars, driving on highways while under influence of intoxicating liquor, reckless driving, and turning a vehicle from a direct course on highway when such movement could not be made with reasonable safety where there was evidence that defendant had consumed nine pints of bottled beer and one glass of beer prior to accident and that while driving east on four lane highway suddenly made a sharp turn to left directly in front of west bound traffic and hit a car which she failed to see. *State v. Weise*, 75 Idaho 404, 273 P.2d 97 (1954).

Guest Guilty of Contributory Negligence.

An automobile passenger who had knowledge of approaching railroad crossing, loca-

tion of which passenger knew, is contributorily negligent in allowing motorist, who also had knowledge of approaching crossing, to drive into train passing over the crossing on an extremely foggy night. *Ranstrom v. Oregon Short Line R.R.*, 18 F. Supp. 256 (D. Idaho 1936).

Information.

Information charged but one offense, where it alleged that defendant under the influence of intoxicating liquor carelessly, negligently, wilfully, unlawfully and feloniously drove a car with great speed against the body of a human being and, thereby, committed the offense of manslaughter, since series of acts charged or individual acts charged constituted offense of manslaughter. *State v. Scott*, 72 Idaho 202, 239 P.2d 258 (1951).

Instructions.

In a manslaughter prosecution, instruction on driving automobile while intoxicated, if incorrect, is harmless, where the jury found the defendant guilty because of reckless driving. *State v. Monteith*, 53 Idaho 30, 20 P.2d 1023 (1933).

In a manslaughter prosecution, instruction on necessity of jury finding that negligence or some other unlawful act of motorist was the proximate cause of death is not erroneous so far as affecting question on instruction on a

lesser offense is concerned. *State v. Monteith*, 53 Idaho 30, 20 P.2d 1023 (1933).

In a prosecution of motorist for manslaughter, instruction that if defendant was not guilty of manslaughter, jury might find him guilty of reckless driving was properly refused. *State v. Monteith*, 53 Idaho 30, 20 P.2d 1023 (1933).

The court's failure to instruct the jury as to degree of negligence which occupant of an automobile must prove to warrant recovery from driver for injuries is error, requiring reversal, where some instructions relate to gross negligence and others to ordinary negligence. *French v. Tebben*, 53 Idaho 701, 27 P.2d 474 (1933).

Instruction on criminal negligence was not required in proceeding in which defendant was charged with offense of involuntary manslaughter, where acts committed by defendant were unlawful acts by virtue of former similar section. *State v. Scott*, 72 Idaho 202, 239 P.2d 258 (1951).

Instruction was not error, which charged that driving on a highway in a motor vehicle while intoxicated was an unlawful act, and that if jury found that operation of automobile by defendant while intoxicated was the proximate cause of death of decedent, that they should find defendant guilty of involuntary manslaughter. *State v. Scott*, 72 Idaho 202, 239 P.2d 258 (1951).

Where a defendant was charged with commission of unlawful acts while operating a

motor vehicle on public highway under influence of intoxicating liquor and at a rate of speed so as to endanger persons and property which resulted in death of another human being it constituted involuntary manslaughter so that instruction on criminal negligence was neither necessary nor proper, but giving of instruction was not prejudicial, since it was to the advantage of the defendant. *State v. Deane*, 75 Idaho 149, 268 P.2d 1114 (1954).

Presumption of Negligence.

Former section created conclusive presumption of negligence, not as principle of evidence, but for express purpose of creating, defining, and regulating rights of persons traveling public highways of state. *Packard v. O'Neil*, 45 Idaho 427, 262 P. 881 (1927).

"Reckless Disregard" Defined.

The term "reckless disregard" means an act or conduct destitute of heed or concern for consequences; especially foolishly heedless of danger, headlong or rash, wanton disregard or conscious indifference to consequences. *Foberg v. Harrison*, 71 Idaho 11, 225 P.2d 69 (1950).

Speed.

In a prosecution of motorist for manslaughter, the testimony of drivers of automobiles which defendant attempted to pass, and parties working in fields and residing near the scene of the accident, regarding speed, is admissible. *State v. Monteith*, 53 Idaho 30, 20 P.2d 1023 (1933).

RESEARCH REFERENCES

Am. Jur. — 8 Am. Jur. 2d, Automobiles and Highway Traffic, § 959.

C.J.S. — 61A C.J.S., Motor Vehicles, § 1435 et seq.

A.L.R. — Gross negligence, recklessness, or the like, within "guest" statute or rule, predicated upon position of car on wrong side of road or encroachment across center line. 6 A.L.R.3d 832.

Liability for motor vehicle accident where

vision of driver is obscured by smoke, dust, atmospheric condition, or unclean windshield. 32 A.L.R.4th 933.

Rights of injured guest as affected by obscured vision from vehicle in which he was riding. 32 A.L.R.4th 933.

Liability for killing or injuring, by motor vehicle, livestock or fowls in highway. 55 A.L.R.4th 822.

49-1402. Parties to a crime. — Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of any act declared to be a crime, whether individually or in connection with one or more other persons or as a principal, agent, or accessory, shall be guilty of that offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any provision of this title is likewise guilty of that offense. [1953, ch. 273, § 177, p. 478; am. and redesign. 1988, ch. 265, § 338, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1106 and was amended and redesignated by § 338 of S.L. 1988, ch. 265 to become this section.

Former § 49-1402 was amended and redesignated as the second paragraph of § 49-2415 by § 479 of S.L. 1988, ch. 265.

49-1403. Offenses by persons owning or controlling vehicles. — It shall be unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle, to require or knowingly permit the operation of the vehicle upon a highway in any manner contrary to law. [1953, ch. 273, § 178, p. 478; am. 1957, ch. 44, § 1, p. 79; am. and redesign. 1988, ch. 265, § 339, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1107 and was amended and redesignated by § 339 of S.L. 1988, ch. 265 to become this section.

Former § 49-1403 was amended and redesignated as § 49-2416 by § 480 of S.L. 1988, ch. 265.

49-1404. Fleeing or attempting to elude a peace officer — Penalty.

— (1) Any driver of a motor vehicle who wilfully flees or attempts to elude a pursuing police vehicle when given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a misdemeanor. The signal given by a peace officer may be by emergency lights or siren. The signal given by a peace officer by emergency lights or siren need not conform to the standards for decibel ratings or light visibility specified in section 49-623(3), Idaho Code. It is sufficient proof that a reasonable person knew or should have known that the visual or audible signal given by a peace officer was intended to bring the pursued vehicle to a stop.

(2) An operator who violates the provisions of subsection (1) and while so doing:

- (a) Travels in excess of thirty (30) miles per hour above the posted speed limit;
- (b) Causes damage to the property of another or bodily injury to another;
- (c) Drives his vehicle in a manner as to endanger or likely to endanger the property of another or the person of another; or
- (d) Leaves the state;

is guilty of a felony.

(3) The department shall suspend the driver's license or privileges of a person who has pled guilty or is found guilty of a misdemeanor violation of the provisions of this section, notwithstanding the form of the judgment or withheld judgment, as provided in section 49-326, Idaho Code. Any person who has pled guilty or is found guilty of a felony violation of the provisions of this section, notwithstanding the form of the judgment or withheld judgment, shall have his driving privileges suspended by the court for a minimum of one (1) year, which may extend to three (3) years, at the discretion of the court, during which time he shall have absolutely no driving privileges of any kind. [I.C., § 49-1102, as added by 1986, ch. 208, § 2, p. 531; am. and redesign. 1988, ch. 265, § 340, p. 549; am. 1989, ch. 88,

§ 54, p. 151; am. 1992, ch. 115, § 33, p. 345; am. 1993, ch. 164, § 1, p. 416; am. 1994, ch. 165, § 1, p. 373; am. 1996, ch. 255, § 1, p. 836.]

STATUTORY NOTES

Cross References. — Penalty for felony when none prescribed, § 18-112.

Compiler's Notes. — This section was formerly compiled as § 49-1102 and was amended and redesignated by § 340 of S.L. 1988, ch. 265 to become this section.

Former § 49-1404 was amended and reded-

esignated as § 49-2417 by § 481 of S.L. 1988, ch. 265.

Effective Dates. — Section 70 of S.L. 1989, ch. 88 as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

JUDICIAL DECISIONS

ANALYSIS

Authorized to leave.
Lesser included offenses.
Penalty.

Authorized to Leave.

No reasonable person who had been unequivocally told that he could go, as defendant was, would believe that he should disregard the officer's statement merely because the patrol car's overhead lights were still flashing, when neither § 49-625 nor § 49-1401(1) required defendant to remain at the site of the traffic stop after the officer authorized him to leave, and it was not practical nor necessary that an officer turn off his emergency lights before he could effectively instruct an individual who had been stopped that he could leave. *State v. Roark*, 140 Idaho 868, 103 P.3d 481 (Ct. App. 2004).

Lesser Included Offenses.

Where the charges against defendant, set forth in the information, did not contain any language indicating that defendant's efforts to elude an officer and recklessly drive his vehicle were the manner by which defendant violated § 18-8006, the offenses of fleeing or attempting to elude a peace officer and reckless driving were not lesser included offenses of aggravated driving while under the influence of alcohol. *State v. Rosencrantz*, 130 Idaho 666, 946 P.2d 628 (1997).

Penalty.

Because the legislature unambiguously denominated a violation of subsection (2) of this section, eluding a peace officer, a felony, and because it did not provide a specific prison term for that charge, the punishment set forth in § 18-112, is applicable and the penalty set forth in subsection (3) of this section, license suspension, is in addition to that punishment; district court properly corrected its error and advised defendant that the maximum penalty for the charge of felony eluding a police officer was five years imprisonment, a \$50,000 fine, and suspension of driving privileges for one to three years. *State v. McCoy*, 128 Idaho 362, 913 P.2d 578 (1996).

Cited in: *State v. Bedard*, 120 Idaho 869, 820 P.2d 1226 (1991); *State v. Pick*, 124 Idaho 601, 861 P.2d 1266 (Ct. App. 1993); *State v. Castaneda*, 125 Idaho 234, 869 P.2d 234 (Ct. App. 1994); *State v. Waldie*, 126 Idaho 864, 893 P.2d 811 (Ct. App. 1995); *State v. Mireles*, 133 Idaho 690, 991 P.2d 878 (Ct. App. 1999); *State v. Hayes*, 138 Idaho 761, 69 P.3d 181 (Ct. App. 2003); *State v. Baker*, 141 Idaho 163, 107 P.3d 1214 (2004); *State v. Eddins*, 142 Idaho 423, 128 P.3d 960 (Ct. App. 2006).

49-1405. Arrests for serious offenses. — (1) The authority to make an arrest is the same as upon an arrest for a felony when any person is charged with any of the following offenses:

- (a) Negligent homicide.
- (b) Driving, or being in actual physical control, of a vehicle or operating a vessel while under the influence of alcohol or other intoxicating beverage.
- (c) Driving a vehicle or operating a vessel while under the influence of any narcotic drug, or driving a vehicle or operating a vessel while under the influence of any other drug to a degree which renders the person incapable of safely driving a vehicle.

(d) Failure to stop, or failure to give information, or failure to render reasonable assistance, in the event of an accident resulting in death or personal injuries.

(e) Failure to stop, or failure to give information, in the event of an accident resulting in damage to a vehicle or vessel or to fixtures or other property legally upon or adjacent to a highway or waterway.

(f) Reckless driving.

(g) Fleeing or attempting to elude a peace officer.

(2) Whenever any person is arrested as authorized in this section, he shall be taken without unnecessary delay before the proper magistrate as provided by law, except that in the case of either of the offenses designated in paragraphs (1)(e), (f) and (g) of this section, a peace officer shall have the same discretion as is provided by law.

(3) As used in this section, the term "vessel" shall be as defined in section 67-7003, Idaho Code. [I.C., 49-576.2.2, as added by 1955, ch. 84, § 33, p. 156; am. 1986, ch. 208, § 3, p. 531; am. and redesisg. 1988, ch. 265, § 341, p. 549; am. 1997, ch. 70, § 1, p. 145; am. 2001, ch. 113, § 1, p. 404.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 341 of S.L. formerly compiled as § 49-1109 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Authority to request blood-alcohol test.

Driving of vehicle.

Probable cause.

Authority to Request Blood-Alcohol Test.

Although the officer arrested and detained the defendant for driving under the influence of alcohol outside the territorial limits of the officer's authority, he was a person authorized to make a request to submit to a blood-alcohol test. *State v. Griffiths*, 113 Idaho 364, 744 P.2d 92 (1987).

Driving of Vehicle.

A deputy sheriff had sufficient facts within his knowledge to make an arrest where, upon being informed that the offense of drunken operating of a motor vehicle had been committed, such operator actually committed the offense in the presence of the officer. Starting the motor of a car and spinning wheels in an effort to move the car out of the borrow pit into which the driver had gone off the road was "driving" within the meaning of the statute. *State v. Parker*, 81 Idaho 51, 336 P.2d 318 (1959).

Under this section, an officer may arrest for driving under the influence, even if it was not committed in his presence. *State v. Moore*, 111 Idaho 854, 727 P.2d 1282 (Ct. App. 1986).

Although the defendant was driving under

the influence of alcohol outside of the presence of the officer, the officer was not acting extraterritorially and without authority when he arrested the defendant because driving under the influence of alcohol is treated as a felony for purposes of arrest. *State v. Griffiths*, 113 Idaho 364, 744 P.2d 92 (1987).

Probable Cause.

Where officers received information that a vehicle involved in a minor accident was heading north out of town, and while in pursuit they observed on the frosty road a single set of tire tracks that crossed the centerline three times, the tracks led directly to a pickup with a matching license plate to that given the officers, the defendant was slouched in the driver's seat, and when outside the truck, the defendant appeared unsteady, the officers smelled alcohol emanating from him, and the defendant admitted having consumed alcohol during the day, the officers had probable cause to arrest the defendant for driving under the influence of alcohol. *State v. Middleton*, 114 Idaho 377, 757 P.2d 240 (Ct. App. 1988).

Merely because driving without privileges

is not included in the list of vehicular offenses in this section does not negate an officer's ability to arrest, based on probable cause, for a violation of § 18-8001(1). *State v. Carr*, 123 Idaho 127, 844 P.2d 1377 (Ct. App. 1992).

The fact that officer had not personally and directly learned or been notified of defendant's license suspension when he arrested

defendant was not dispositive. An officer in the field may rely on information supplied by other officers, and the collective knowledge of police officers involved in the investigation — including dispatch personnel — may support a finding of probable cause. *State v. Carr*, 123 Idaho 127, 844 P.2d 1377 (Ct. App. 1992).

49-1406. When person must be taken immediately before a magistrate. — Whenever any person is halted by a peace officer for any violation of the provisions of this title not amounting to a misdemeanor and demands an immediate appearance before a magistrate, he shall be taken without unnecessary delay before the proper magistrate as specified in section 49-1411, Idaho Code. [1953, ch. 273, § 179, p. 478; am. 1955, ch. 84, § 34, p. 156; am. 1983, ch. 25, § 8, p. 66; am. and redesign. 1988, ch. 265, § 342, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 342 of S.L. formerly compiled as § 49-1110 and was 1988, ch. 265 to become this section.

49-1407. When peace officer has option to take person before a magistrate. — Whenever any person is halted by a peace officer for any misdemeanor violation of the provisions of this title and is not required to be taken before a magistrate, the person shall, in the discretion of the officer, either be given a traffic citation or be taken without unnecessary delay before the proper magistrate as specified in section 49-1411, Idaho Code, in the following cases:

(1) When the person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court.

(2) When the person is charged with a violation relating to the refusal of a driver of a vehicle to submit a vehicle to an inspection and test.

(3) When the person is charged with a violation relating to the failure or refusal of a driver of a vehicle to submit the vehicle and load to a weighing or to remove excess weight therefrom. [I.C., § 49-576.3.1, as added by 1955, ch. 84, § 35, p. 156; am. 1983, ch. 25, § 9, p. 66; am. and redesign. 1988, ch. 265, § 343, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 343 of S.L. formerly compiled as § 49-1111 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Application.

Basis for arrest.

— Not established.

Presentation to magistrate.

—Improper delay.

—Timeliness.

Modification of general authority to arrest.

Purpose.

Application.

The provision in this section for issuance of a traffic citation was not applicable to defendant who was arrested under a city ordinance which made it a misdemeanor for a person to be intoxicated while in a private motor vehicle located in a public place and who was taken to the police station for photographing and fingerprinting. *Voyles v. City of Nampa*, 97 Idaho 597, 548 P.2d 1217 (1976).

Basis for Arrest.

Subsection (1) of this section allowed officers to arrest when the officer had reasonable and probable grounds to believe the person would disregard a written promise to appear in court on misdemeanor traffic violations; thus, where pursuant to a violation defendant was stopped and had no driver's license, no proof of insurance, the registration defendant produced was for a different vehicle, and the vehicle's license plates were fictitious, the officer had grounds to arrest, and the search of defendant's vehicle incident to that arrest, which revealed methamphetamine, was upheld. *State v. Brown*, 139 Idaho 707, 85 P.3d 683 (Ct. App. 2004).

—Not Established.

Defendant's statement to officers that as an ambassador of the Kingdom of God he was not required to carry a driver's license, and his failure to obey these officers' previous admonitions with regard to driving without a driver's license, did not provide a basis for arrest pursuant to this section, as the statement and continued driving constituted neither a failure to furnish satisfactory evidence of identity, nor reasonable and probable grounds to believe defendant would disregard a written promise to appear in court. *Tanner v. Heise*, 879 F.2d 572 (9th Cir. 1989).

The arrest of a driver for driving with an expired license was illegal, as no statute requires an arrest for the offense of driving with an expired license and the arrest was not

required under this section, as the defendant's license, although expired, supplied reasonable evidence of her identity. *State v. Foldesi*, 131 Idaho 778, 963 P.2d 1215 (Ct. App. 1998).

Presentation to Magistrate.

—Improper Delay.

An uncooperative motorist was improperly held in a county jail for four days following her arrest before being brought before a magistrate despite her repeated demands to see a magistrate, where county officials made no showing that the delay was justified by reasonable and prompt administrative procedures, or that the delay was anything other than a coercive measure imposed to gain her cooperation in answering booking questions. *Hallstrom v. City of Garden City*, 991 F.2d 1473 (9th Cir.), cert. denied, 510 U.S. 991, 114 S. Ct. 549, 126 L. Ed. 2d 540 (1993).

—Timeliness.

The laws of Idaho guaranteeing timely presentation to a magistrate place substantive limitations on official discretion and contain explicitly mandatory language sufficient to create a liberty interest protected by the Fourteenth Amendment and actionable under 42 U.S.C. § 1983. *Hallstrom v. City of Garden City*, 991 F.2d 1473 (9th Cir.), cert. denied, 510 U.S. 991, 114 S. Ct. 549, 126 L. Ed. 2d 540 (1993).

Modification of General Authority to Arrest.

This section, which provides the authority for arrests in cases of traffic violations, narrows the broader arrest authority contained in § 19-603. *Tanner v. Heise*, 879 F.2d 572 (9th Cir. 1989).

Purpose.

This section modifies the general authority to arrest for a misdemeanor. *Tanner v. Heise*, 879 F.2d 572 (9th Cir. 1989).

49-1408. Arrest of nonresident. — (1) All of the provisions of this title apply both to residents and nonresidents of Idaho, except the special provisions in this section which shall govern misdemeanor violations in respect to nonresidents under the circumstances stated.

(2) A peace officer at the scene of a traffic accident may arrest without a warrant any driver of a vehicle who is a nonresident of this state and who is involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this title in connection with

the accident, and if the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court.

(3) Whenever any person is arrested under the provisions of this section, he shall be taken without unnecessary delay before the proper magistrate as specified in section 49-1411, Idaho Code. [I.C., § 49-576.3.2, as added by 1955, ch. 84, § 36, p. 156; am. 1983, ch. 25, § 10, p. 66; am. and redesisg. 1988, ch. 265, § 344, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 344 of S.L. formerly compiled as § 49-1112 and was 1988, ch. 265 to become this section.

49-1409. Issuance of traffic citation. — Whenever a person is halted by a peace officer for a misdemeanor traffic violation and is not taken before a magistrate as required or permitted by this title, the officer shall issue a citation as provided by section 19-3901, Idaho Code, and by rule of the supreme court. [I.C., § 49-1113, as added by 1983, ch. 25, § 12, p. 66; am. and redesisg. 1988, ch. 265, § 345, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 345 of S.L. formerly compiled as § 49-1113 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Presentation to Magistrate.

The laws of Idaho guaranteeing timely presentation to a magistrate place substantive limitations on official discretion and contain explicitly mandatory language sufficient to create a liberty interest protected by the Fourteenth Amendment and actionable under

42 U.S.C. § 1983. Hallstrom v. City of Garden City, 991 F.2d 1473 (9th Cir.), cert. denied, 510 U.S. 991, 114 S. Ct. 549, 126 L. Ed. 2d 540 (1993).

Cited in: State v. Brown, 139 Idaho 707, 85 P.3d 683 (Ct. App. 2004).

49-1410. Authority of officer to issue citation at scene of accident. — A peace officer at the scene of a traffic accident may issue a written traffic citation, as provided in section 19-3901, Idaho Code, to any driver of a vehicle involved in the accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person had committed any offense under the provisions of this title in connection with the accident. [I.C., § 49-1114, as added by 1983, ch. 25, § 14, p. 66; am. and redesisg. 1988, ch. 265, § 346, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 346 of S.L. formerly compiled as § 49-1114 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Time of Issuance.

The driver of a motor vehicle who is involved in an accident may be cited the next day for operation of the vehicle at the time of

the accident while under the influence of alcohol, rather than resorting to a warrant of arrest. *State v. Moore*, 111 Idaho 854, 727 P.2d 1282 (Ct. App. 1986).

49-1411. Appearance before magistrate — Procedure. — A person shall be taken before a magistrate or given a traffic citation and the charge subsequently processed, as provided by rule of the supreme court. [I.C., § 49-1115, as added by 1983, ch. 25, § 16, p. 66; am. and redesign. 1988, ch. 265, § 347, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 347 of S.L. formerly compiled as § 49-1115 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

ANALYSIS

Actionable interest.
Improper delay.

Actionable Interest.

The laws of Idaho guaranteeing timely presentation to a magistrate place substantive limitations on official discretion and contain explicitly mandatory language sufficient to create a liberty interest protected by the Fourteenth Amendment and actionable under 42 U.S.C. § 1983. *Hallstrom v. City of Garden City*, 991 F.2d 1473 (9th Cir.), cert. denied, 510 U.S. 991, 114 S. Ct. 549, 126 L. Ed. 2d 540 (1993).

her arrest before being brought before a magistrate despite her repeated demands to see a magistrate, where county officials made no showing that the delay was justified by reasonable and prompt administrative procedures or that the delay was anything other than a coercive measure imposed to gain her cooperation in answering booking questions. *Hallstrom v. City of Garden City*, 991 F.2d 1473 (9th Cir.), cert. denied, 510 U.S. 991, 114 S. Ct. 549, 126 L. Ed. 2d 540 (1993).

Improper Delay.

An uncooperative motorist was improperly held in a county jail for four days following

Cited in: *State v. Foldesi*, 131 Idaho 778, 963 P.2d 1215 (Ct. App. 1998).

49-1412. Release of defendant when magistrate not available. — Whenever any person is taken into custody by an officer for the purpose of taking him before a magistrate as authorized or required in this chapter upon any charge other than a felony or the offenses enumerated in subsections (1)(a) through (d) of section 49-1405, Idaho Code, and no magistrate is available at the time of arrest, and there is no bail schedule established by any magistrate or court and no lawfully designated court clerk or other public officer who is available and authorized to accept bail upon behalf of the magistrate or court, the person shall be released from custody upon the issuance to him of a written traffic citation and his signing a promise to appear. [I.C., § 49-576.4.3, as added by 1955, ch. 84, § 40, p. 156; am. 1983, ch. 25, § 17, p. 66; am. and redesign. 1988, ch. 265, § 348, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 348 of S.L. formerly compiled as § 49-1116 and was 1988, ch. 265 to become this section.

49-1413. Procedure prescribed not exclusive. — The provisions of this chapter shall govern all peace officers in making arrests without a warrant for misdemeanor violations of the provisions of this title, but the procedure prescribed shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade. [1953, ch. 273, § 182, p. 478; am. 1983, ch. 25, § 18, p. 66; am. and redesign. 1988, ch. 265, § 349, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 349 of S.L. formerly compiled as § 49-1118 and was 1988, ch. 265 to become this section.

49-1414. Conviction for traffic violation not to affect credibility of witness. — The conviction of a person upon a charge of violating any provision of this title less than a felony shall not affect or impair the credibility of that person as a witness in any civil or criminal proceeding. [1953, ch. 273, § 184, p. 478; am. and redesign. 1988, ch. 265, § 350, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 350 of S.L. formerly compiled as § 49-1120 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: Beale v. Speck, 127 Idaho 521, 903 P.2d 110 (Ct. App. 1995).

49-1415. Illegal cancellation of traffic citation — Audit of citation records. — (1) Any person who cancels or solicits the cancellation of any traffic citation, in any manner other than as provided in this chapter, shall be guilty of a misdemeanor.

(2) Every record of traffic citations required in this chapter shall be audited at least biennially by the appropriate fiscal officer of the governmental agency to which the traffic-enforcement agency is responsible.

(3) The fiscal officer shall publish or cause to be published at least biennially a summary of all traffic violation notices issued by the traffic-enforcement agency and their dispositions in at least one (1) local newspaper of general circulation. [1953, ch. 273, § 187, p. 478; am. and redesign. 1988, ch. 265, § 351, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 351 of S.L. formerly compiled as § 49-1123 and was 1988, ch. 265 to become this section.

49-1416. Record of traffic cases — Report of convictions to department. — (1) Every magistrate or judge of a court shall keep or cause to be kept a record of every traffic complaint, traffic citation, or other legal form of traffic charge deposited with or presented to the court, and shall keep a record of every official action by the court in reference thereto, including a record of every conviction, forfeiture resulting from every traffic complaint or citation deposited with or presented to the court.

(2) Within ten (10) days after a conviction or forfeiture of bail of a person upon a charge of violating any provision of this title or other law regulating the operation of vehicles on highways, the magistrate of the court or clerk of the court of record in which the conviction was had or bail was forfeited shall prepare and immediately forward to the department, either by paper or electronically, an abstract of the record of the court covering the case in which the person was convicted or forfeited bail. The abstract shall be certified by the person required to prepare the abstract to be true and correct. A report need not be made of any conviction involving the illegal parking or standing of a vehicle.

(3) The abstract, whether paper or electronic, shall be made upon a form as prescribed by the supreme court and shall include the name and address of the party charged, the number if any of his driver's license, the registration number of the motor vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of the fine or forfeiture as applicable.

(4) Every court of record shall also forward a like report to the department upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(5) Courts shall not mask, defer imposition of judgment, or allow the holder of a commercial driver's license to enter into a diversion program that would prevent a conviction in any jurisdiction of a violation committed in any type of motor vehicle of a state or local traffic control law, excluding a parking violation, from appearing on the driver's record.

(6) The failure, refusal, or neglect of any judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal.

(7) The department shall keep all abstracts received in either electronic format or on microfilm, and abstracts shall be open to public inspection during reasonable business hours with the exception of personal information which may be exempt from disclosure as otherwise provided by law. [1953, ch. 273, § 188, p. 478; am. 1982, ch. 95, § 74, p. 185; am. and redesign. 1988, ch. 265, § 352, p. 549; am. 1992, ch. 115, § 34, p. 345; am. 1998, ch. 110, § 30, p. 375; am. 2006, ch. 164, § 10, p. 489.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 164, added present subsection (5) and redesignated former subsections (5) and (6) as (6) and (7).

Compiler's Notes. — This section was formerly compiled as § 49-1124 and was amended and redesignated by § 352 of S.L. 1988, ch. 265 to become this section.

49-1417. Provisions of sections uniform throughout state. — The provisions of sections 49-1401 and 49-1402, Idaho Code, shall be applicable and uniform throughout the state and in all political subdivisions and no local authority shall enact or enforce any ordinance, rule, or regulation in conflict with the provisions of those sections. [I.C., § 49-1127, as added by 1973, ch. 79, § 3, p. 126; am. and redesisg. 1988, ch. 265, § 353, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 353 of S.L. formerly compiled as § 49-1127 and was 1988, ch. 265 to become this section.

49-1418. Authorizing seizure of vessels, motor and other vehicles — Prohibiting defacing, altering or obliterating numbers — Sales prohibited. — (1) Any peace officer or authorized transportation department employee, with or without a warrant, may seize and take possession of any vehicle, trailer, semitrailer, vessel, vessel motor or implement of husbandry, or any part or parts thereof, which the peace officer or authorized employee has probable cause to believe is stolen, or on which any motor number, manufacturer's number, or identification number has been defaced, altered, removed, covered, destroyed or obliterated. Any peace officer or authorized transportation department employee so seizing a vehicle, vessel, equipment or parts thereof immediately shall notify the department and shall make every reasonable effort to determine ownership of the vehicle, vessel or equipment and to notify the rightful owner that the vehicle has been seized.

(2) It shall be unlawful for any person owning, conducting, managing or operating a service station, public garage, paint shop, or other repair shop for vehicles, vessels, or equipment described in subsection (1) of this section, to fail to notify local law enforcement agencies or the department, of any vehicle, vessel, equipment or parts thereof on which any numbers described in subsection (1) of this section, have been defaced, altered, removed, covered, destroyed or obliterated.

(3) Any person who shall deface, alter, remove, cover, destroy or obliterate the motor number, manufacturer's number, or identification number of any vehicle, vessel, equipment or parts thereof described in subsection (1) of this section, or places or stamps any serial number, engine number, or any other number upon a vehicle, vessel, equipment or parts thereof unless the number is assigned by the department is guilty of a felony and is punishable as provided by section 18-112, Idaho Code.

(4) Any person who knowingly disposes of, sells or offers for sale any vehicle, engine or parts removed from a vehicle, vessel, equipment or parts thereof described in subsection (1) of this section from which the manufacturer's number, motor number, identification number or any assigned or replacement number issued by the department has been defaced, altered, removed, covered, destroyed or obliterated is guilty of a felony. [I.C., § 49-1128, as added by 1982, ch. 353, § 34, p. 874; am. 1985, ch. 117, § 43, p. 242; am. and redesisg. 1988, ch. 265, § 354, p. 549; am. 1991, ch. 288, § 5, p. 739.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 354 of S.L. formerly compiled as § 49-1128 and was 1988, ch. 265 to become this section.

49-1419. Obedience to traffic direction. — No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer, fireman or uniformed adult school crossing guard invested by law with authority to direct, control or regulate traffic. [I.C., § 49-1129, as added by 1982, ch. 353, § 34, p. 874; am. 1985, ch. 133, § 1, p. 327; am. and redesisg. 1988, ch. 265, § 355, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 355 of S.L. formerly compiled as § 49-1129 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: State v. Pick, 124 Idaho 601, 861 P.2d 1266 (Ct. App. 1993).

49-1420. Interference with official traffic control devices or railroad signs or signals. — No person shall, without lawful authority, attempt to or in fact alter, twist, deface, injure, knock down, remove or interfere with the effective operation of any traffic control device or any railroad sign or signal or any inscription, shield or insignia, or any other part. [I.C., § 49-1130, as added by 1982, ch. 353, § 34, p. 874; am. and redesisg. 1988, ch. 265, § 356, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 356 of S.L. formerly compiled as § 49-1130 and was 1988, ch. 265 to become this section.

49-1421. Driving on divided highways — Restricted access. — (1) Whenever any highway has been divided into two (2) or more traffic lanes by leaving an intervening space or by a physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand traffic lane unless directed or permitted to use another traffic lane by traffic control devices or peace officers. No vehicle shall be driven over, across or within any dividing space, barrier or section, except through an opening in the physical barrier, dividing section or space or at a crossover or intersection as established, unless specifically prohibited by public authority.

(2) No person shall drive a vehicle onto or from any controlled access highway except at entrances and exits as are established by proper authority. [I.C., § 49-1131, as added by 1982, ch. 353, § 34, p. 874; am. and redesisg. 1988, ch. 265, § 357, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 357 of S.L. formerly compiled as § 49-1131 and was 1988, ch. 265 to become this section.

49-1422. Overtaking and passing school bus. — (1) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching the school bus when there is in operation on a school bus the visual signals specified in section 49-915, Idaho Code, and the driver of a vehicle shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. Oncoming traffic on a highway of more than three (3) lanes is not required to stop upon meeting a school bus when visual signals are actuated. Any person found guilty of violating the provisions of this subsection shall be fined an amount of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(2) Every school bus shall be equipped with visual signals meeting the requirements of section 49-915, Idaho Code, which shall be actuated by the driver of the school bus whenever, but only whenever the vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the special visual signals:

- (a) In business districts designated by the department or local authorities; or
- (b) At intersections or other places where traffic is controlled by traffic control signals or peace officers; or
- (c) In designated school bus loading areas where the bus is entirely off the roadway.

(3) Every school bus shall bear upon the front and rear plainly visible signs containing the words "SCHOOL BUS" in letters not less than eight (8) inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school all markings thereon indicating "school bus" shall be covered or concealed.

(4) When any school bus is sold and is no longer to be used for the transportation of pupils, before it may again be used on the highways of this state it shall be painted a color other than school bus chrome and all school bus markings shall be obliterated. [I.C., § 49-1132, as added by 1982, ch. 353, § 34, p. 874; am. and redesign. 1988, ch. 265, § 358, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 358 of S.L. formerly compiled as § 49-1132 and was 1988, ch. 265 to become this section.

49-1423. Investigation of reported violation of failing to obey school bus warning devices. — (1) The driver of a school bus who observes a violation of section 49-1422, Idaho Code, shall prepare a written report on a form provided by the department of education indicating that a violation has occurred. The school bus driver or a school official shall deliver

the report no more than seventy-two (72) hours after the alleged violation occurred to a peace officer of the state or a peace officer of the county or municipality in which the alleged violation occurred. The report shall state the time and the location at which the alleged violation occurred and shall include the motor vehicle license plate number and a description of the vehicle involved in the alleged violation.

(2) Not more than seven (7) calendar days after receiving a report of an alleged violation of section 49-1422, Idaho Code, from a school bus driver or a school official, the peace officer shall initiate an investigation of the reported violation and contact the registered owner of the motor vehicle involved in the reported violation and request that the owner supply information identifying the driver if the registered owner claims he was not the driver at the time the alleged violation occurred. If, from the investigation, the peace officer is able to identify the driver and has reasonable cause to believe a violation of section 49-1422, Idaho Code, has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall serve it personally or by certified mail to the driver of the vehicle. [I.C., § 49-1423, as added by 1996, ch. 242, § 2, p. 772.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-1423 which comprised I.C., § 49-1132A, as added by 1986, ch. 320, § 1, p. 787; and am. and redesisg. 1988, ch. 265, § 359, p. 549, was repealed by S.L. 1996, ch. 242, § 1.

49-1424. Racing on public highways. — (1) No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any race, competition, contest, test or exhibition.

(2) The provisions of this section shall not prohibit the use of the highways for organized motoring activities where speed or acceleration is not the objective of the contest but rather the prime objective is the precise measurement of time and distance within the posted legal speed limits.

(3) The provisions of this section shall not prohibit organized motoring activities upon the highways where speed is a primary objective of the contest when prior written permission is obtained from the authority having jurisdiction over the area to be used, and prior notification is given to law enforcement agencies in the area to be used. [I.C., § 49-1133, as added by 1982, ch. 353, § 34, p. 874; am. and redesisg. 1988, ch. 265, § 360, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 360 of S.L. formerly compiled as § 49-1133 and was 1988, ch. 265 to become this section.

49-1425. Railroad trains not to unnecessarily block crossings. — No person or government agency shall operate any train in a manner as to prevent vehicular use of any highway for a period of time in excess of fifteen (15) consecutive minutes except:

- (1) When necessary to comply with signals affecting the safety of the movement of trains;
- (2) When necessary to avoid striking any object or person on the track;
- (3) When the train is stopped to comply with a governmental safety regulation;
- (4) When the train is disabled;
- (5) When the train is in motion except while engaged in switching operations;
- (6) When there is no vehicular traffic waiting to use the crossing. [I.C., § 49-1134, as added by 1982, ch. 353, § 34, p. 874; am. and redesign. 1988, ch. 265, § 361, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 361 of S.L. formerly compiled as § 49-1134 and was 1988, ch. 265 to become this section.

49-1426. Pedestrians under influence of alcohol or drugs. — A pedestrian who is under the influence of alcohol or any drug to a degree which renders him a hazard shall not walk or be upon a highway except on a sidewalk. [I.C., § 49-1135, as added by 1982, ch. 353, § 34, p. 874; am. and redesign. 1988, ch. 265, § 362, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 362 of S.L. formerly compiled as § 49-1135 and was 1988, ch. 265 to become this section.

49-1427. Vehicles transporting explosives. — Any person operating a vehicle transporting any explosive as a cargo or part of a cargo, upon a highway, shall at all times comply with the provisions of this section.

(1) The vehicle shall be marked or placarded on each side and the rear with the word "explosives" in letters not less than eight (8) inches high, and there shall be displayed on the rear of the vehicle a red flag not less than twenty-four (24) inches square, marked with the word "danger" in white letters six (6) inches high.

(2) The vehicle shall be equipped with not less than two (2) fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle. [I.C., § 49-1136, as added by 1982, ch. 353, § 34, p. 874; am. and redesign. 1988, ch. 265, § 363, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 363 of S.L. formerly compiled as § 49-1136 and was 1988, ch. 265 to become this section.

49-1428. Financial responsibility. — (1) It shall be unlawful for any person to operate a motor vehicle upon highways without a valid policy of liability insurance in full force and effect in an amount not less than that provided in section 49-117, Idaho Code, or unless the person has been issued

a certificate of self-insurance pursuant to section 49-1224, Idaho Code, or has previously posted an indemnity bond with the director of insurance as provided in section 49-1229, Idaho Code.

(2) It is an infraction punishable by a fine of seventy-five dollars (\$75.00) for any person to violate the provisions of this section for the first time. A second and any subsequent conviction of a violation of the provisions of this section or the provisions of section 49-1229 or 49-1232, Idaho Code, within five (5) years shall be a misdemeanor, punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six (6) months, or both. The department shall notify any person convicted of a violation of this section of the penalties which may be imposed for a second and any subsequent conviction. [I.C., § 49-235, as added by 1976, ch. 247, § 5, p. 848; am. and redesign. 1988, ch. 265, § 364, p. 549; am. 1990, ch. 432, § 7, p. 1198; am. 1998, ch. 423, § 5, p. 1335; am. 1999, ch. 81, § 20, p. 237.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-235 and was amended and redesignated by § 364 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 10 of S.L. 1990, ch. 432 provided: "The provisions of Sections 1 through 8 of this act shall become effective on a date to be determined by the

Director of the Transportation Department which date shall be enumerated in a proclamation signed by the Director and filed with the Secretary of State, but in no event later than September 1, 1990."

Section 6 of S.L. 1998, ch. 423 provided this act shall be in full force and effect on and after January 1, 1999.

JUDICIAL DECISIONS

ANALYSIS

Classifications valid.

Minimum standards not set for every policy.

Classifications Valid.

The statutory classification in § 49-1534 (now § 49-1224) limiting self insurance to qualified fleet operators substantially furthers the legislative objective of financial responsibility; the classification satisfies the means focus test and, a fortiori, also would satisfy the rational basis test. Because that classification is valid, the statutory requirement in this section that other motorists carry certificates of liability insurance (or post an indemnity bond) is similarly valid. *State v. Reed*, 107 Idaho 162, 686 P.2d 842 (Ct. App. 1984).

Minimum Standards Not Set for Every Policy.

Where legislature enacted a compulsory insurance law, § 49-233 (now § 49-1229) and this section, which requires that all owners of motor vehicles continuously provide motor vehicle liability insurance not less than that required by § 49-1521 (now § 49-1212), it is clear that the legislature had not viewed § 49-1521 (now § 49-1212) as establishing minimum standards for every insurance policy. *Porter v. Farmers Ins. Co.*, 102 Idaho 132, 627 P.2d 311 (1981).

49-1429. False certificate. — It shall be unlawful for anyone to alter, falsify, forge, counterfeit, or issue or make any certificate of liability insurance except as provided for in this title. [I.C., § 49-246, as added by 1979, ch. 150, § 1, p. 463; am. and redesign. 1988, ch. 265, § 365, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 365 of S.L. formerly compiled as § 49-246 and was 1988, ch. 265 to become this section.

49-1430. Forged certificate. — Any person who shall forge or, without authority, sign any declaration that a policy or bond is in effect, or any evidence of proof of financial responsibility, or who files or offers for filing any evidence of proof knowing or having reason to believe it is forged or signed without authority, shall be deemed guilty of a misdemeanor and be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one (1) year, or both. [1947, ch. 256, § 32, p. 706; am. 1970, ch. 106, § 1, p. 266; am. and redesign. 1988, ch. 265, § 366, p. 549; am. 2001, ch. 74, § 8, p. 171.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1532 and was amended and redesignated by § 366 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

CHAPTER 15

TRAFFIC INFRACTIONS

SECTION.

- 49-1501. Infraction citation — Issuance.
 49-1502. Procedure for processing infraction citations.
 49-1503. Penalties for violations of statutes and ordinances.
 49-1504. Appeals — Procedures.
 49-1505. Suspension of driver's license and privileges for failure to pay underlying traffic infraction penalty — Appeal.

SECTION.

- 49-1506. Provisions uniform throughout state.
 49-1507 — 49-1511. [Repealed.]
 49-1512 — 49-1535. [Amended and Redesignated.]
 49-1536. [Repealed.]
 49-1537. [Amended and Redesignated.]
 49-1538 — 49-1540. [Repealed.]

49-1501. Infraction citation — Issuance. — A peace officer or authorized employee of the Idaho transportation department may issue an Idaho uniform citation for any infraction violation of the provisions of chapters 3, 4 and 6 through 9 of this title, or any other section of this title for which an infraction penalty is specifically provided, in which he shall certify that he has reasonable grounds to believe and does believe, that the person cited committed the infraction contrary to law. [I.C., § 49-3402, as added by 1981, ch. 223, § 6, p. 415; am. 1982, ch. 353, § 36, p. 874; am. 1987, ch. 134, § 3, p. 266; am. and redesign. 1988, ch. 265, § 368, p. 549; am. 1990, ch. 432, § 8, p. 1198; am. 1991, ch. 226, § 4, p. 538; am. 2000, ch. 327, § 5, p. 1101.]

STATUTORY NOTES

Prior Laws. — Former § 49-1501, which comprised 1947, ch. 256, § 1, p. 706; am.

1961, ch. 136, § 1, p. 198; am. 1974, ch. 27, § 143, p. 811; am. 1982, ch. 95, § 76, p. 185;

am. 1983, ch. 199, § 2, p. 539, was repealed by S.L. 1988, ch. 265, § 367, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-3402 and was amended and redesignated by § 368 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 10 of S.L. 1990, ch. 432 provided: "The provisions of Sections 1 through 8 of this act shall become

effective on a date to be determined by the Director of the Transportation Department which date shall be enumerated in a proclamation signed by the Director and filed with the Secretary of State, but in no event later than September 1, 1990."

Section 6 of S.L. 1991, ch. 226 provided that the act should take effect on and after January 1, 1992.

JUDICIAL DECISIONS

Cited in: *Draper v. Draper*, 115 Idaho 973, 772 P.2d 180 (1989).

49-1502. Procedure for processing infraction citations. — (1) The procedure for processing an infraction citation and the trial thereon, if any, shall be the same as provided for the processing of a misdemeanor citation under rules promulgated by the supreme court, except there shall be no right to a trial by jury. An infraction is a civil public offense, but in order to insure the maximum protection of the laws to the citizens charged with having committed an infraction, the burden of proof and the rules of evidence applied to an infraction proceeding shall be those provided in a criminal trial.

(2) In the event the defendant of an infraction citation admits the offense, pays the penalty prescribed in the rules of the supreme court pursuant to section 49-1503(2), Idaho Code, or is found to have committed the infraction after trial before the court, a judgment shall be entered and reported to the department within ten (10) days of entry of the judgment. [I.C., § 49-3403, as added by 1982, ch. 353, § 37, p. 874; am. and redesign. 1988, ch. 265, § 369, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3403 and was amended and redesignated by § 369 of S.L. 1988, ch. 265 to become this section.

Former § 49-1502 was amended and redesignated as § 49-1201 by § 291 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Right to Present Defense.

The magistrate's order finding that the defendant had committed the offense of failure to yield was vacated, where the defendant's

right to present a defense was prematurely curtailed by the magistrate. *State v. Matthews*, 112 Idaho 413, 732 P.2d 382 (Ct. App. 1987).

49-1503. Penalties for violations of statutes and ordinances. —

(1) No local authority may, by ordinance, regulation or otherwise make any act a misdemeanor which, but for that ordinance or regulation, would constitute an infraction under any provision of this chapter and all such acts made a misdemeanor or for which a misdemeanor penalty has been established by any local authority through ordinance, regulation or other-

wise are hereby declared to be infractions as defined in section 49-110, Idaho Code.

(2) The penalty for an infraction citation and the judgment entered for the commission of an infraction shall be the amount set for that infraction in the payment schedule to be adopted by supreme court order and published annually by the administrative director of the courts. [I.C., § 49-3406, as added by 1982, ch. 353, § 37, p. 874; am. 1983, ch. 25, § 19, p. 66; am. 1987, ch. 134, § 4, p. 266; am. and redesisg. 1988, ch. 265, § 370, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3406 and was amended and redesignated by § 370 of S.L. 1988, ch. 265 to become this section. Former § 49-1503 was amended and redesignated as § 49-1202 by § 292 of S.L. 1988, ch. 265.

49-1504. Appeals — Procedures. — (1) Any person found to have committed an infraction after a hearing by a court may appeal the findings to the district court in the same manner prescribed by law and rule for any criminal appeal from the magistrate's division of the district court.

(2) An appeal under this section shall not operate to stay the reporting requirements of section 49-1502(2), Idaho Code. [I.C., § 49-3407, as added by 1981, ch. 223, § 6, p. 415; am. 1982, ch. 353, § 38, p. 874; am. and redesisg. 1988, ch. 265, § 371, p. 549.]

STATUTORY NOTES

Cross References. — Appeals from magistrate division, § 1-2213. was repealed by S.L. 1988, ch. 265, § 367, effective January 1, 1989.

Prior Laws. — Former § 49-1504, which comprised 1947, ch. 256, § 4, p. 706; am. 1955, ch. 255, § 1, p. 564; am. 1974, ch. 27, § 146, p. 811; am. 1982, ch. 95, § 79, p. 185, was repealed by S.L. 1988, ch. 265, § 367, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-3407 and was amended and redesignated by § 371 of S.L. 1988, ch. 265 to become this section.

49-1505. Suspension of driver's license and privileges for failure to pay underlying traffic infraction penalty — Appeal. — (1) The department shall immediately suspend the driver's license, permit and operating privileges of any driver upon receiving notice from any court of the state that a person has failed to pay the penalty for a traffic infraction judgment. The notice may be sent to the department by any court which shall certify that a judgment for an infraction not involving a pedestrian or a bicycle violation has been entered against the person and that he has failed to pay the penalty after notice and hearing, or opportunity for hearing, as prescribed by rule of the supreme court. No notice of nonpayment of an infraction penalty shall be sent to the department if the court finds that the person failing to pay the penalty has a complete and continuing financial inability to pay the penalty.

(2) The suspension of operating privileges under this section shall continue for a period of ninety (90) days or until the penalty has been paid, whichever comes first, from notice of suspension by the department. The

suspension shall be processed by the department in the same manner as other suspensions under section 49-326, Idaho Code, except that no hearing shall be held by the department and the department shall not issue any temporary restricted permit. Upon receipt of the notice of nonpayment of the penalty from the court, the department shall perform the ministerial duty of giving official notification of suspension of the driver's license and operating privileges.

(3) Upon proper application and payment of any required fee, a driver's license, privileges or permit suspended under this section shall be reinstated by the department after the period of ninety (90) days, or shall be reinstated at an earlier date upon proof of payment of the penalty for the infraction. Upon payment of the infraction penalty, the court shall issue a receipt which may be filed with the department together with an application for reinstatement of the driver's license, privileges or permit.

(4) After the expiration of a ninety (90) day suspension under this section, the driver's license, permit and driving privileges of the driver whose driver's license, permit and driving privileges were suspended shall not be reinstated under the provisions of section 49-328, Idaho Code, nor renewed under the provisions of section 49-319, Idaho Code, until the penalty for the infraction has been paid to the court in the county in which the citation was issued.

(5) Any person operating a motor vehicle after the expiration of a ninety (90) day suspension under this section, whose driver's license, privileges or permit has not been reinstated under the provisions of section 49-328, Idaho Code, or renewed under the provisions of section 49-319, Idaho Code, shall be in violation of the provisions of section 49-301, Idaho Code, for operating a motor vehicle without a driver's license.

(6) Any person whose driver's license has been suspended under this section may appeal to the district court in the county where the infraction judgment was entered within the time and in the manner provided for criminal appeals from the magistrates division to the district court. The appeal shall be expedited as provided by rule of the supreme court. If the district court finds that the notice of nonpayment of the infraction penalty should not have been sent to the department for suspension of the driver's license, privileges or permit, the district court shall order the privileges be reinstated by the department and upon receipt of a copy of such order the department shall reinstate the privileges without the payment of a fee. [I.C., § 49-3408, as added by 1983, ch. 25, § 20, p. 66; am. 1986, ch. 203, § 1, p. 506; and redesi. 1988, ch. 265, § 372, p. 549; am. 1989, ch. 88, § 55, p. 151; am. 1992, ch. 115, § 35, p. 345.]

STATUTORY NOTES

Cross References. — Appeals from magistrate division, § 1-2213.

Prior Laws. — Former § 49-1505, which comprised 1947, ch. 256, § 5, p. 706; am. 1955, ch. 255, § 2, p. 564; am. 1961, ch. 136, § 2, p. 198; am. 1974, ch. 27, § 147, p. 811; am. 1982, ch. 95, § 80, p. 185; am. 1983, ch.

199, § 3, p. 539, was repealed by S.L. 1988, ch. 265, § 367, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-3408 and was amended and redesignated by § 372 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 70 of S.L.

1989, ch. 88 as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

JUDICIAL DECISIONS

Cited in: State v. Matalamaki, 139 Idaho 341, 79 P.3d 162 (Ct. App. 2003).

49-1506. Provisions uniform throughout state. — The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions. [I.C., § 49-3411, as added by 1981, ch. 223, § 6, p. 415; am. 1982, ch. 353, § 40, p. 874; am. and redesisg. 1988, ch. 265, § 373, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1506, which comprised 1947, ch. 256, § 6, p. 706; am. 1961, ch. 106, § 1, p. 157; am. 1974, ch. 27, § 148, p. 811; am. 1982, ch. 95, § 81, p. 185, was repealed by S.L. 1988, ch. 265, § 367, effective January 1, 1989.

Compiler's Notes. — This section was

formerly compiled as § 49-3411 and was amended and redesignated by § 373 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-1507 — 49-1511. Duration of suspension of license after accident — Application to nonresidents — Security — Matters not evidence in civil suit. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1947, ch. 256, §§ 7-11, p. 706; am. 1955, ch. 162, § 1, p. 322; am. 1955, ch. 255, § 3, p. 564; am. 1974, ch. 27, §§ 149-

153; p. 811; am. 1982, ch. 95, §§ 82-85, p. 185, were repealed by S.L. 1988, ch. 265, § 367, effective January 1, 1989.

49-1512 — 49-1535. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-1512 — 49-1535 was amended and redesignated as §§ 49-1203 — 49-1222, 49-1430, 49-1223 —

49-1225 by §§ 293-312, 366, 313 — 315 of S.L. 1988, ch. 265, respectively.

49-1536. Part application. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1947, ch. 256, § 36, p. 706, was

repealed by S.L. 1988, ch. 265, § 367, effective January 1, 1989.

49-1537. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-1537 was amended and redesignated as § 49-1226 by § 316 of S.L. 1988, ch. 265.

49-1538 — 49-1540. Motor vehicle safety responsibility act — Interpretation — Separability — Title. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — These sections, 706, were repealed by S.L. 1988, ch. 265, which comprised 1947, ch. 256, §§ 38 — 40, p. § 367, effective January 1, 1989.

CHAPTER 16**DEALERS AND SALESMEN LICENSING****SECTION.**

- 49-1601. Unlicensed dealers and salesmen prohibited.
- 49-1602. Administration — Powers and duties.
- 49-1603. Dealer advisory board.
- 49-1604. Records as evidence.
- 49-1605. Change of franchise status.
- 49-1606. Classes of licenses — Nonresident dealers. [Effective until January 1, 2009.]
- 49-1606. Classes of licenses — Nonresident dealers. [Effective January 1, 2009.]
- 49-1607. Fees — Funds — Expenses — Expiration of licenses.
- 49-1608. License bond. [Effective until January 1, 2009.]
- 49-1608. License bond. [Effective January 1, 2009.]
- 49-1608A. Dealer and manufacturer liability insurance.
- 49-1609. Manufacturer or dealer to give notice of sale or transfer.
- 49-1609A. Satisfaction of liens prior to resale of vehicle.
- 49-1610. Right of action for loss by fraud — Process.
- 49-1611. Display, form and custody of dealer's and salesman's license.
- 49-1612. Notice of change of address.
- 49-1613. Unlawful acts by licensee.
- 49-1614. Termination, cancellation or nonrenewal.
- 49-1615. Succession to ownership.

SECTION.

- 49-1616. Limitations on establishing or relocating dealers.
- 49-1617. Protests — Hearings — Costs.
- 49-1618. Denial or revocation of license requires hearing.
- 49-1619. Production of witnesses and documents.
- 49-1620. Report of findings.
- 49-1621. Judicial review.
- 49-1622. Product liability responsibility.
- 49-1623. Product liability indemnification.
- 49-1624. Disclosure of damage required.
- 49-1625. Repaired damage not grounds for rejection.
- 49-1626. Payment for delivery preparation and warranty service.
- 49-1627. Use of dealer and manufacturer license plate.
- 49-1628. Use of vehicle dealer loaner plate.
- 49-1629. Odometers.
- 49-1630. Purchaser plaintiff to recover costs and attorney's fees.
- 49-1631. [Repealed.]
- 49-1632. Applicability of chapter.
- 49-1633. Limitations.
- 49-1634. Dealer sales — Minimum sales required for license renewal.
- 49-1635. Salesman sales — Minimum sales required for license renewal.
- 49-1636. Consignment sales.
- 49-1637. Education requirements for vehicle dealers.
- 49-1638. Manufacturer incentive programs for motor vehicle dealers.

49-1601. Unlicensed dealers and salesmen prohibited. — It shall be unlawful for any person to act as a dealer or salesman, wholesaler, manufacturer of vehicles or a manufacturer, distributor, factory branch, or

distributor branch representative, without first having procured a license from the department. It shall be unlawful for any person other than a licensed dealer to display a vehicle for sale unless the title is in the name of the displayer. It shall be unlawful to solicit sales of vehicles without a dealer's license, unless the title is in the name of the seller. The provisions of this section shall not apply to the sale or solicitation of specialty vehicles to governmental entities within the state. Specialty vehicles shall be defined as fire trucks, fire engines, urban transit buses, ambulances, street sweepers and hazardous material response vehicles. [1965, ch. 290, § 1, p. 759; am. 1967, ch. 62, § 1, p. 127; am. 1973, ch. 308, § 1, p. 669; am. 1982, ch. 95, § 106, p. 185; am. 1985, ch. 117, § 4, p. 242; am. and redesisg. 1988, ch. 265, § 374, p. 549; am. 1993, ch. 230, § 1, p. 803.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2401 and was amended and redesignated by § 374 of S.L. 1988, ch. 265 to become this section.

Former § 49-1601 was amended and redesignated as § 49-2420 by § 482 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 2 of S.L. 1993, ch. 230 declared an emergency. Approved March 26, 1993.

JUDICIAL DECISIONS

Cited in: Bryant Motors, Inc. v. American States Ins. Cos., 118 Idaho 796, 800 P.2d 683 (Ct. App. 1990).

49-1602. Administration — Powers and duties. — The department shall:

(1) Issue, and for reasonable cause shown, refuse to issue an applicant any license authorized under the provisions of this chapter. The department may refuse to issue a license to any applicant, other than a partnership or corporation, if the applicant fails to comply with the terms and provisions of this chapter or the rules of the board, or if the applicant has been convicted of a violation of any of the provisions of this chapter or chapter 5, title 49, or section 49-1418 or chapter 6, title 48, Idaho Code, or of any federal odometer law or regulation. Should the applicant be a partnership or a corporation, the department may refuse to issue a license to the applicant where it determines that one (1) or more of the partners of a partnership, or one (1) or more of the stockholders or officers of a corporation, was previously the holder of a license which was revoked or suspended, and the license revoked never reissued or the suspended license never reinstated, or that one (1) or more of the partners, stockholders, or officers, though not previously the holder of a license, has violated any of the provisions of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(2) For just cause shown, revoke or suspend, on terms, conditions, and for a period of time as the department shall consider fair and just, any license or licenses issued pursuant to the provisions of this chapter. No license shall be revoked or suspended unless it shall be shown that the licensee has

violated a provision of this chapter or of an applicable rule or regulation, or of federal motor vehicle safety standards.

(3) On its own motion, upon the sworn complaint of any person, investigate any suspected or alleged violation by a licensee of any of the provisions of this chapter or of an applicable rule or regulation.

(4) Prescribe forms for applications for licenses and qualifications for an applicant for licensure. Every application for a license shall contain, in addition to other information required by the department, the following:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business. If the applicant is a copartnership, the name and residence address of each member, whether a limited or general partner, and the name under which the partnership business is to be conducted. If the applicant is a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city with the street number, of the principal place of business and any other and additional places of business operated and maintained by the applicant in conjunction with the principal place of business.

(c) Copies of any letters of franchise for new vehicles that the applicant has been enfranchised to sell or exchange, and the name or names and addresses of the manufacturer or distributor who has enfranchised the applicant.

(d) Names and addresses of the persons who shall act as salesmen under the authority of the license, if issued.

(e) A copy of the certificate of assumed business name, if required, shall be filed with the secretary of state.

(f) For a manufacturer's license, the name or names and addresses of each and every distributor, factory branch, and factory representative.

(g) For a salesman's license, certification by the dealer by whom the salesman will be employed, that he has examined the background of the applicant, and to the best of the dealer's knowledge, is qualified to be licensed under the sponsorship of the licensed dealer.

(h) Before a dealer who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, may apply for a renewal of a vehicle dealer's license, he shall provide to the department a certification from an accredited educational system, private vocational school, correspondence school or trade association approved by the department stating that the vehicle dealer has satisfied the four (4) hour continuing education requirements as specified in section 49-1637(1), Idaho Code.

(i) Before any vehicle dealer's license is issued by the department to an applicant who is not licensed with the department as a dealer within the previous twelve (12) calendar months and who is not exempted from the continuing education requirements as provided in section 49-1637(2), Idaho Code, the applicant shall provide to the department a certification from an accredited educational institution, private vocational school, correspondence school or trade association approved by the department

stating that the applicant has satisfactorily completed the open book examination requirement specified in section 49-1637(1), Idaho Code.

(5) Refuse to issue any license under the provisions of this chapter if, upon investigation, the department finds that any information contained in the application is incomplete, incorrect or fictitious.

(6) Require that a dealer's principal place of business, and other locations operated and maintained by him in conjunction with his principal place of business, have erected or posted signs or devices providing information relating to the dealer's name, location and address of the principal place of business, and the number of the license held by the dealer.

(7) Provide for regular meetings of the dealer advisory board, to be held not less frequently than semiannually. Notices of meetings of the advisory board shall be mailed to all members not less than five (5) days prior to the date on which the meeting is to be held.

(8) Inspect, prior to licensing, the principal place of business and other sites or locations as may be operated and maintained by the applicant.

(9) Seek and consider the advisory board's recommendations and comments regarding proposed rules promulgated for the administration of the provisions of this chapter.

(10) Require the attendance of not less than one (1) or more than three (3) advisory board members at all hearings held relating to this chapter. [1965, ch. 290, § 3, 759; am. 1967, ch. 62, § 3, p. 127; am. 1974, ch. 27, § 170, p. 811; am. 1978, ch. 243, § 3, p. 521; am. 1982, ch. 95, § 108, p. 185; am. 1985, ch. 117, § 6, p. 242; am. and redesign. 1988, ch. 265, § 375, p. 549; am. 1991, ch. 272, § 6, p. 686; am. 1998, ch. 392, § 20, p. 1197; am 2003, ch. 98, § 1, p. 315.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2403 and was amended and redesignated by § 375 of S.L. 1988, ch. 265 to become this section.

Former § 49-1602 was amended and redesi-

gnated as § 49-2421 by § 483 of S.L. 1988, ch. 265.

Effective Dates. — Section 3 of S.L. 2003, ch. 98 provided that the act should take effect on and after January 1, 2004.

49-1603. Dealer advisory board. — (1) There shall be a dealer advisory board to consist of eight (8) members to assist and advise the department in the administration of the provisions of this chapter. Five (5) members shall be appointed from licensed dealers selling new vehicles, two (2) members appointed from licensed dealers selling used vehicles and one (1) member shall be appointed from licensed dealers selling new recreational vehicles. The governor shall appoint the board with consideration to recommendations of the board of directors of the Idaho Automobile Dealers Association, recommendations of the board of directors of the Recreational Vehicle Dealers Association of Idaho and recommendations of the Independent Dealer Association representing used vehicle dealers. The term of office of each member shall be three (3) years. Vacancies occurring on the board other than by expiration of the term shall be filled for the unexpired term only, and each member of the board shall serve until his successor is appointed and qualified. Members of the advisory board shall be compen-

sated as provided by section 59-509(b), Idaho Code, and payments of compensation shall be paid from the state highway account as part of the expenses of administering the provisions of this chapter. A majority of the members of the advisory board shall constitute a quorum, the presence of which at any meeting duly called by the department shall have full and complete power to act upon and resolve in the name of the advisory board any matter, thing or question referred to it by the department, or which by reason of any provisions of this chapter, it has power to determine.

(2) The advisory board on the first day of each July, or as soon thereafter as practicable, shall elect a chairman, vice-chairman and secretary from among its members, who shall hold office until their successors are elected. As soon as the board has elected its officers, the secretary shall certify the results of the election to the department. The chairman shall preside at all meetings of the advisory board and the secretary shall make a record of their proceedings. All members of the advisory board shall be entitled to vote on any question, matter, or thing which properly comes before it. [1965, ch. 290, § 4, p. 759; am. 1967, ch. 62, § 4, p. 127; am. 1974, ch. 27, § 171, p. 811; am. 1980, ch. 247, § 47, p. 582; am. 1982, ch. 95, § 109, p. 185; am. 1985, ch. 117, § 7, p. 242; am. 1988, ch. 264, § 25, p. 519; am. and redesign. 1988, ch. 265, § 376, p. 549; am. 1989, ch. 310, § 27, p. 769; am. 1991, ch. 272, § 7, p. 686; am. 1996, ch. 135, § 1, p. 460.]

STATUTORY NOTES

Cross References. — State highway account, § 40-702.

Compiler's Notes. — This section was formerly compiled as § 49-2404 and was amended and redesignated by § 376 of S.L.

1988, ch. 265 to become this section.

Former § 49-1603 was amended and redesignated as § 49-2422 by § 484 of S.L. 1988, ch. 265.

49-1604. Records as evidence. — Copies of all records and papers in the office of the director, authenticated under the hand and seal of the director, shall be received in evidence in all cases equally and with like effect as the original. [1965, ch. 290, § 5, p. 759; am. 1974, ch. 27, § 172, p. 811; am. and redesign. 1988, ch. 265, § 377, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2405 and was amended and redesignated by § 377 of S.L. 1988, ch. 265 to become this section.

Former § 49-1604 was amended and redesignated as § 49-2423 by § 485 of S.L. 1988, ch. 265.

49-1605. Change of franchise status. — Should the dealer change to, or add another franchise for the sale of new vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new vehicles, he shall immediately notify the department. [I.C., § 49-2406, as added by 1985, ch. 117, § 8, p. 242; am. and redesign. 1988, ch. 265, § 378, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 378 of S.L. formerly compiled as § 49-2406 and was 1988, ch. 265 to become this section.

49-1606. Classes of licenses — Nonresident dealers. [Effective until January 1, 2009.] — Licenses issued under the provisions of this chapter shall be as follows:

(1) A dealer's license shall permit the licensee to engage in the business of selling or exchanging new and used vehicles, new and used motorcycles, motor-driven cycles and motorbikes, new and used all-terrain vehicles, utility type vehicles, snow machines and travel trailers, and new and used motor homes. This form of license shall permit licensees who are owners or part owners of the business of the licensee to act as vehicle salesmen.

(2) A vehicle salesman's license shall permit the licensee to engage in the activities of a vehicle salesman.

(3) A wholesale dealer's license shall permit the licensee to engage in the business of wholesaling used vehicles to Idaho vehicle dealers. The holder of this license must meet all the requirements for a principal place of business, except for the requirement of display area and adequate room to repair vehicles.

(4) A vehicle manufacturer's license shall permit the licensee to engage in the business of constructing or assembling vehicles, of the type subject to registration under this title at an established place of business within Idaho.

(5) A distributor, factory branch, or distributor branch license shall permit the licensee to engage in the business of selling and distributing vehicles, parts, and accessories to their franchised dealers.

(6) A representative (factory branch or distributor, etc.) license shall permit the licensee to engage in the business of contacting his respective authorized dealers, for the purpose of making or promoting the sale of his, its, or their vehicles, parts, and accessories.

(7) Pending the satisfaction of the department that the applicant has met the requirements for licensure, it may issue a temporary permit to any applicant for a license. A temporary permit shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of facts relative to the qualifications of the applicant for a license. A temporary permit shall terminate when the applicant's license has been issued or refused.

(8) The department may issue a probationary vehicle salesman's license, subject to conditions to be observed in the exercise of the privilege granted either upon application for issuance of a license or upon application for renewal of a license. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department.

(9) A nonresident dealer who is currently authorized to do business as, and has an established place of business as a vehicle dealer in another state, is not subject to licensure under the provisions of this chapter as long as the

sales are limited to the exportation of vehicles for sale to, and the importation of vehicles purchased from, licensed Idaho vehicle dealers. [1965, ch. 290, § 7, p. 759; am. 1967, ch. 62, § 5, p. 127; am. 1985, ch. 117, § 9, p. 242; am. 1988, ch. 264, § 26, p. 519; am. and redesisg. 1988, ch. 265, § 379, p. 549; am. 1991, ch. 272, § 8, p. 686; am. 2008, ch. 198, § 7, p. 642.]

STATUTORY NOTES

Amendments. — The 2008 amendment, by ch. 198, in the first sentence in subsection (1), inserted “motor-driven cycles” and “utility type vehicles” and substituted “motorbikes” for “motor scooters.”

Compiler’s Notes. — This section was formerly compiled as § 49-2407 and was

amended and redesignated by § 379 of S.L. 1988, ch. 265 to become this section.

The words in parentheses so appeared in the law as enacted.

For this section as effective January 1, 2009, see the following section, also numbered § 49-1606.

49-1606. Classes of licenses — Nonresident dealers. [Effective January 1, 2009.] — Licenses issued under the provisions of this chapter shall be as follows:

(1) A dealer’s license shall permit the licensee to engage in the business of selling or exchanging new and used vehicles, new and used motorcycles, motor-driven cycles and motorbikes, new and used all-terrain vehicles, utility type vehicles, snow machines and travel trailers, truck campers, and new and used motor homes. This form of license shall permit licensees who are owners or part owners of the business of the licensee to act as vehicle salesmen.

(2) A vehicle salesman’s license shall permit the licensee to engage in the activities of a vehicle salesman.

(3) A wholesale dealer’s license shall permit the licensee to engage in the business of wholesaling used vehicles to Idaho vehicle dealers. The holder of this license must meet all the requirements for a principal place of business, except for the requirement of display area and adequate room to repair vehicles.

(4) A vehicle manufacturer’s license shall permit the licensee to engage in the business of constructing or assembling vehicles, of the type subject to registration under this title at an established place of business within Idaho.

(5) A distributor, factory branch, or distributor branch license shall permit the licensee to engage in the business of selling and distributing vehicles, parts, and accessories to their franchised dealers.

(6) A representative (factory branch or distributor, etc.) license shall permit the licensee to engage in the business of contacting his respective authorized dealers, for the purpose of making or promoting the sale of his, its, or their vehicles, parts, and accessories.

(7) Pending the satisfaction of the department that the applicant has met the requirements for licensure, it may issue a temporary permit to any applicant for a license. A temporary permit shall not exceed a period of ninety (90) days while the department is completing its investigation and determination of facts relative to the qualifications of the applicant for a license. A temporary permit shall terminate when the applicant’s license has been issued or refused.

(8) The department may issue a probationary vehicle salesman's license, subject to conditions to be observed in the exercise of the privilege granted either upon application for issuance of a license or upon application for renewal of a license. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department.

(9) A nonresident dealer who is currently authorized to do business as, and has an established place of business as a vehicle dealer in another state, is not subject to licensure under the provisions of this chapter as long as the sales are limited to the exportation of vehicles for sale to, and the importation of vehicles purchased from, licensed Idaho vehicle dealers. [1965, ch. 290, § 7, p. 759; am. 1967, ch. 62, § 5, p. 127; am. 1985, ch. 117, § 9, p. 242; am. 1988, ch. 264, § 26, p. 519; am. and redesign. 1988, ch. 265, § 379, p. 549; am. 1991, ch. 272, § 8, p. 686; am. 2008, ch. 106, § 4, p. 300; am. 2008, ch. 198, § 7, p. 642.]

STATUTORY NOTES

Amendments. — This section was amended by two 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 106, effective January 1, 2009, inserted "truck campers" in the first sentence in subsection (1).

The 2008 amendment, by ch. 198, in the first sentence in subsection (1), inserted "motor-driven cycles" and "utility type vehicles"

and substituted "motorbikes" for "motor scooters."

Compiler's Notes. — For this section as effective until January 1, 2009, see the preceding section, also numbered § 49-1606.

Effective Dates. — Section 7 of S.L. 2008, ch. 106 provided "This act shall be in full force and effect on and after January 1, 2009."

49-1607. Fees — Funds — Expenses — Expiration of licenses. —

(1) The department shall collect with each application for licensure, the following fees:

(a) Dealer's, wholesale dealer's and vehicle manufacturer's license, initial application, one hundred twenty-five dollars (\$125), ten dollars (\$10.00) of which shall be deposited in the county current expense fund. Renewal application, one hundred dollars (\$100).

(b) Vehicle salesman's license, twenty-five dollars (\$25.00), ten dollars (\$10.00) of which shall be deposited in the county current expense fund.

(c) Distributor-factory branch-distributor branch license, one hundred dollars (\$100).

(d) Representative's license, twenty-five dollars (\$25.00).

(e) To reissue a license, salesman and dealer identification cards or other licensing documents at a dealer's request, not resulting from an error by the department, a fee of ten dollars (\$10.00) per document.

(f) Supplemental lot license or relocated principal place of business, and temporary supplemental lot, twenty-five dollars (\$25.00) for license issued to a single dealer. A fee of fifty dollars (\$50.00) for a license issued to a group of dealers for a temporary supplemental lot.

(2) All fees shall be paid over to the state treasurer for credit to the state highway account out of which shall be paid the expenses of the department and the expenses incurred in enforcing the provisions of this chapter.

(3) Dealer licenses, if not suspended or revoked, may be renewed from year to year upon the payment of the fees specified in this section to accompany applications, and renewals shall be made in accordance with the provisions of section 49-1634, Idaho Code.

(a) There shall be twelve (12) licensing periods, starting with January and ending in December. A dealer's license shall be in effect from the month of initial licensing through the last day of the next year's calendar month that precedes the month of the initial licensing.

(b) Any renewal license application received or postmarked after thirty (30) days from the end of the previous year's license period shall be processed as an initial application and initial fees shall be paid.

(4) Salesman licenses, if not suspended or revoked, shall be valid for three (3) years from the date of issue provided that:

(a) Employment remains with the sponsoring dealership; and

(b) The sponsoring dealership has a valid license issued by the department.

Renewals shall be issued in accordance with the provisions of section 49-1635, Idaho Code. [1965, ch. 290, § 8, p. 759; am. 1967, ch. 62, § 6, p. 127; am. 1974, ch. 27, § 174, p. 811; am. 1978, ch. 243, § 4, p. 521; am. 1982, ch. 95, § 111, p. 185; am. 1985, ch. 117, § 10, p. 242; am. 1988, ch. 264, § 27, p. 519; am. and redesign. 1988, ch. 265, § 380, p. 549; am. 1991, ch. 272, § 9, p. 686; am. 1993, ch. 297, § 1, p. 1095; am. 1998, ch. 392, § 21, p. 1197.]

STATUTORY NOTES

Cross References. — State highway accounts, § 40-702.

Compiler's Notes. — This section was formerly compiled as § 49-2408 and was amended and redesignated by § 380 of S.L.

1988, ch. 265 to become this section.

Effective Dates. — Section 4 of S.L. 1993, ch. 297 provided that the act shall be in full force and effect on January 1, 1994.

49-1608. License bond. [Effective until January 1, 2009.] — (1) Before any dealer's license shall be issued by the department to any applicant, the applicant shall procure and file with the department good and sufficient bond in the amount shown, conditioned that the applicant shall not practice any fraud, make any fraudulent representation or violate any of the provisions of this chapter, rules of the department, or the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or federal motor vehicle safety standards, or odometer fraud in the conduct of the business for which he is licensed.

(a) All dealers, including wholesale, but excluding a dealer exclusively in the business of motorcycles, motor-driven cycles and motorbikes, all-terrain vehicles, utility type vehicles and snow machine sales, twenty thousand dollars (\$20,000).

(b) A dealer exclusively in the business of motorcycle, motor-driven cycle and motorbike sales, all-terrain vehicles, utility type vehicles and snow machine sales, ten thousand dollars (\$10,000).

(2) The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section. The bond shall be in the following form:

- (a) A corporate surety bond, by a surety licensed to do business in this state; or
- (b) A certificate of deposit, in a form prescribed by the director; or
- (c) A cash deposit with the director.

(3) If a bond is canceled or otherwise becomes invalid, upon receiving notice of the cancellation or invalidity, the department shall immediately suspend the dealer's license and take possession of the license itself, all vehicle plates used in the business and all unused title applications of the licensee. The licensee is entitled to a hearing which shall be held within twenty (20) days of the suspension. Upon receiving notice that a valid bond is in force, the department shall immediately reinstate the license.

(4) The bond requirements of this section shall be satisfied if the applicant is a duly licensed manufactured home dealer in accordance with chapter 21, title 44, Idaho Code, and the bond required by section 44-2103, Idaho Code, otherwise meets the requirements of this section. The amount of the bond shall be in the amount as required in this section or that required in section 44-2103, Idaho Code, whichever is greater. The applicant shall furnish a certified copy of the bond as required in section 44-2103, Idaho Code, to the department. [I.C., § 49-2409, as added by 1978, ch. 243, § 5, p. 521; am. 1979, ch. 187, § 2, p. 544; am. 1982, ch. 95, § 112, p. 185; am. 1985, ch. 117, § 11, p. 242; am. 1987, ch. 109, § 1, p. 221; am. 1988, ch. 140, § 1, p. 252; am. and redesisg. 1988, ch. 265, § 381, p. 549; am. 1989, ch. 310, § 28, p. 769; am. 1990, ch. 152, § 1, p. 336; am. 1991, ch. 272, § 10, p. 686; am. 2006, ch. 42, § 7, p. 122; am. 2008, ch. 198, § 8, p. 643.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 42, deleted "regulations" following "rules" in the introductory paragraph of subsection (1) and inserted "utility type vehicles" in subsections (1)(a) and (b).

The 2008 amendment, by ch. 198, in subsections (1)(a) and (1)(b), inserted "motor-driven cycles," and substituted "motorbikes"

for "motor scooters," or similar language.

Compiler's Notes. — This section was formerly compiled as § 49-2409 and was amended and redesignated by § 381 of S.L. 1988, ch. 265 to become this section.

For this section as effective January 1, 2009, see the following section, also numbered § 49-1608.

JUDICIAL DECISIONS

Purpose.

The purpose of this section is to indemnify any person injured by the dealer's fraud in conducting his business of selling vehicles; accordingly, an obligation to indemnify is not

limited to the general public, but extends to anyone injured by a dealer's fraud. *Bryant Motors, Inc. v. American States Ins. Cos.*, 118 Idaho 796, 800 P.2d 683 (Ct. App. 1990).

49-1608. License bond. [Effective January 1, 2009.] — (1) Before any dealer's license shall be issued by the department to any applicant, the applicant shall procure and file with the department good and sufficient bond in the amount shown, conditioned that the applicant shall not practice any fraud, make any fraudulent representation or violate any of the

provisions of this chapter, rules of the department, or the provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or federal motor vehicle safety standards, or odometer fraud in the conduct of the business for which he is licensed.

(a) All dealers, including wholesale, but excluding a dealer exclusively in the business of motorcycles, motor-driven cycles and motorbikes, all-terrain vehicles, utility type vehicles, truck campers and snow machine sales, twenty thousand dollars (\$20,000).

(b) A dealer exclusively in the business of motorcycle, motor-driven cycle and motorbike sales, all-terrain vehicles, utility type vehicles, truck campers and snow machine sales, ten thousand dollars (\$10,000).

(2) The bond required in this section may be continuous in form and the total aggregate liability on the bond shall be limited to the payment of the amounts set forth in this section. The bond shall be in the following form:

(a) A corporate surety bond, by a surety licensed to do business in this state; or

(b) A certificate of deposit, in a form prescribed by the director; or

(c) A cash deposit with the director.

(3) If a bond is canceled or otherwise becomes invalid, upon receiving notice of the cancellation or invalidity, the department shall immediately suspend the dealer's license and take possession of the license itself, all vehicle plates used in the business and all unused title applications of the licensee. The licensee is entitled to a hearing which shall be held within twenty (20) days of the suspension. Upon receiving notice that a valid bond is in force, the department shall immediately reinstate the license.

(4) The bond requirements of this section shall be satisfied if the applicant is a duly licensed manufactured home dealer in accordance with chapter 21, title 44, Idaho Code, and the bond required by section 44-2103, Idaho Code, otherwise meets the requirements of this section. The amount of the bond shall be in the amount as required in this section or that required in section 44-2103, Idaho Code, whichever is greater. The applicant shall furnish a certified copy of the bond as required in section 44-2103, Idaho Code, to the department. [I.C., § 49-2409, as added by 1978, ch. 243, § 5, p. 521; am. 1979, ch. 187, § 2, p. 544; am. 1982, ch. 95, § 112, p. 185; am. 1985, ch. 117, § 11, p. 242; am. 1987, ch. 109, § 1, p. 221; am. 1988, ch. 140, § 1, p. 252; am. and redesign. 1988, ch. 265, § 381, p. 549; am. 1989, ch. 310, § 28, p. 769; am. 1990, ch. 152, § 1, p. 336; am. 1991, ch. 272, § 10, p. 686; am. 2006, ch. 42, § 7, p. 122; am. 2008, ch. 106, § 5, p. 301; am. 2008, ch. 198, § 8, p. 643.]

STATUTORY NOTES

Amendments. — This section was amended by two 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 106, effective January 1, 2009, in subsections (1)(a) and (1)(b), inserted "truck campers."

The 2008 amendment, by ch. 198, in subsections (1)(a) and (1)(b), inserted "motor-

driven cycles," and substituted "motorbikes" for "motor scooters," or similar language.

Compiler's Notes. — For this section as effective until January 1, 2009, see the preceding section, also numbered § 49-1608.

Effective Dates. — Section 7 of S.L. 2008, ch. 106 provided "This act shall be in full force and effect on and after January 1, 2009."

49-1608A. Dealer and manufacturer liability insurance. — Every dealer and vehicle manufacturer shall, as a condition of issuance or renewal of a dealer or vehicle manufacturer license by the department, continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person arising out of the ownership, maintenance or use of vehicles owned by or under the control of the licensee and used in conduct of the business of the dealer or vehicle manufacturer. Such insurance shall be in an amount not less than twenty-five thousand dollars (\$25,000) because of bodily injury to or death of one (1) person in any one (1) accident and, subject to the limit for one (1) person, in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of fifteen thousand dollars (\$15,000) because of injury to or destruction of property of others in any one (1) accident. The applicant for a dealer or vehicle manufacturer license shall maintain on file with the department a certificate of liability insurance, issued by an insurance or surety company authorized to do business in this state or by an authorized agent of such company, in such form as may be prescribed by the director of the department of insurance as set forth in section 49-1231, Idaho Code. [I.C., § 49-1608A, as added by 2006, ch. 208, § 1, p. 637.]

49-1609. Manufacturer or dealer to give notice of sale or transfer. — Every manufacturer or dealer, upon transferring a vehicle, whether by sale, lease or otherwise, to any person other than a manufacturer or dealer, shall within thirty (30) calendar days, give written notice of the transfer to the department or the assessor upon the official form provided by the department. Every notice shall contain the date of transfer, the time of transfer, the names and addresses of the transferor and transferee, any liens, a current odometer reading and a description of the vehicle as may be called for in the official form. [I.C., § 49-2410, as added by 1985, ch. 117, § 12, p. 242; am. and redesign. 1988, ch. 265, § 382, p. 549; am. 1989, ch. 35, § 3, p. 44; am. 1991, ch. 272, § 11, p. 686.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 382 of S.L. 1988, ch. 265 to become this section. formerly compiled as § 49-2410 and was

49-1609A. Satisfaction of liens prior to resale of vehicle. — (1) When a motor vehicle dealer licensed pursuant to this chapter takes possession of a vehicle for purposes of resale, the dealer shall have ten (10) business days from the date of possession to satisfy in full any and all lienholders who are perfected at the time of taking possession, unless the owner relinquishing possession of the vehicle agrees in writing to directly pay the perfected lienholder.

(2) No such vehicle shall be resold or transferred to any retail purchaser until all perfected liens have been satisfied in full.

(3) It shall be a misdemeanor punishable as provided in section 49-236, Idaho Code, for any person or licensee to violate the provisions of this section. [I.C., § 49-1609A, as added by 2001, ch. 190, § 1, p. 653.]

49-1610. Right of action for loss by fraud — Process. — (1) If any person shall suffer any loss or damage by reason of any fraud practiced on him or fraudulent representation made to him by a licensed dealer or one (1) of the dealer's salesmen acting for the dealer, in his behalf or within the scope of the employment of salesman, or shall suffer any loss or damage by reason of the violation by the dealer or salesman of any of the provisions of this chapter, or chapter 5, title 49, Idaho Code, or section 49-1418, Idaho Code, or chapter 6, title 48, Idaho Code, or any applicable rule or regulation of the board, or federal odometer law or regulation, that person shall have a right of action against the dealer and his salesman.

(2) Notwithstanding the terms, provisions or conditions of any agreement or franchise, or other terms or provisions of any novation, waiver or other written instrument, any person who is or may be injured by a violation of a provision of this chapter, or any party to a franchise who is so injured in his business or property by a violation of a provision of this chapter relating to that franchise, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of the provisions of this chapter, may bring an action for damages and equitable relief, including injunctive relief.

(3) A license or a renewal shall not be issued to any applicant unless and until the applicant shall file with the director a good and sufficient instrument in writing in which he shall appoint the director as the true and lawful agent of the applicant upon whom all process may be served in any action or actions which may subsequently be commenced against the applicant arising out of any claim for damages suffered by any person by reason of the violation of the applicant of any of the terms and provisions of this chapter or provisions of chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or of federal motor vehicle safety standards, or federal odometer laws and regulations. The applicant shall stipulate and agree in the appointment that any process directed to the applicant in such a case which is served upon the director, or in his absence his designee, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree in writing that the agency created by the appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of the provisions of this chapter. The instrument appointing the director as agent for the applicant for service of process shall be acknowledged by the applicant before an officer authorized to take and certify acknowledgments under the laws of this state. In any case wherein the licensee be served with process by service upon the director, two (2) copies of the process shall be left with the director. Not later than two (2) days after the service of the process upon him, the director shall mail one (1) copy to the licensee at his principal place of business, as the same appears of record in the office of the director,

postpaid, by certified mail with request for return receipt. The remaining copy shall be retained on file with the director. The licensee shall then have and be allowed thirty (30) days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For the purpose of venue where the licensee is served with process upon the director, the service shall be deemed to have been made upon the licensee in the county in which he has or last had his principal place of business.

(4) Whenever any person is awarded a final judgment in a court of competent jurisdiction in the state of Idaho for any loss or damage by reason of the violation by such dealer or salesman of any of the provisions of this chapter, chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, or any rule or regulation of the department in connection with the purchase of a vehicle, or federal motor vehicle safety standards, or in connection with the purchase of a vehicle if the loss or damage is a result of odometer tampering, or odometer fraud, the judgment creditor may file a verified claim with the corporate surety who has provided the dealer's surety bond, or with the chairman of the dealer advisory board where the dealer has deposited with the director a cash bond or certificate of deposit.

(a) The claim shall be filed no sooner than thirty (30) days and no later than one (1) year after the judgment has become final.

(b) The claim shall:

1. Be accompanied by a certified copy of the judgment;
2. State the amount of the claim if different from the judgment amount; and
3. State that demand has been made upon the dealer for payment of the judgment, and the dealer has failed to pay the judgment in full within thirty (30) days.

(5) Where a dealer has satisfied the bonding requirement with cash or a certificate of deposit, the chairman shall make written notification to the dealer against whom the judgment was obtained, that a claim has been made. The dealer may, within ten (10) days from the date of receipt of the notice, submit written objections to the dealer advisory board as to why the judgment should not be satisfied from the cash deposit or certificate of deposit.

(6) Within sixty (60) days from the date the claim was filed with the dealer advisory board, if it has found the claimant complied with the provisions of subsection (4) of this section, the board shall authorize the director to satisfy the judgment from the dealer's deposited funds in so far as he is able. Upon receipt of any payment, the claimant shall deliver a properly executed satisfaction of judgment or a partial satisfaction of judgment to the director. If additional claims have been filed prior to payment, or the chairman of the dealer advisory board has knowledge that additional claims are pending which may exceed the amount of the bond, the chairman may delay any payments until all claims are finalized. If the claims exceed the amount of the bond, the deposited funds shall be prorated among the claimants based on the amount of their judgments.

(7) A judgment against a dealer or salesman for violation of the provisions of this chapter, rules and regulations of the department, the provisions of

chapter 5, title 49, section 49-1418, or chapter 6, title 48, Idaho Code, the federal motor vehicle safety standards or odometer fraud, shall be grounds for revocation of the dealer and the salesman's licenses.

(8) The Idaho transportation board is authorized to promulgate reasonable rules and regulations not inconsistent with this chapter for the purpose of carrying out the provisions of section 49-1610, Idaho Code [this section].

(9) Should a dealer's license be revoked, voluntarily surrendered or not renewed, leaving funds on deposit with the department, those funds shall be refunded within thirty (30) days after the expiration of a five (5) year period from the date of revocation, surrender, or nonrenewal of the license unless the dealer advisory board has been notified in writing that a claim or cause of action is pending. In that case, the refund, if any, will be made upon the resolution of the claim or claims. In no case shall the dealer advisory board, the department, the state of Idaho, or any of their employees or agents be liable to any claimant for any amounts other than the funds deposited by the dealer. [1965, ch. 290, § 11, p. 759; am. 1967, ch. 62, § 9, p. 127; am. 1970, ch. 19, § 2, p. 34; am. 1974, ch. 27, § 175, p. 811; am. 1985, ch. 117, § 13, p. 242; am. 1988, ch. 140, § 2, p. 252; am. and redesisg. 1988, ch. 265, § 383, p. 549; am. 1989, ch. 310, § 29, p. 769; am. 1991, ch. 272, § 12, p. 686.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2411 and was amended and redesignated by § 383 of S.L. 1988, ch. 265 to become this section.

The bracketed words "this section" in subsection (8) were inserted by the compiler.

Effective Dates. — Section 34 of S.L. 1989, ch. 310 declared an emergency and provided that the act would become effective retroactive to January 1, 1989. Approved April 5, 1989.

JUDICIAL DECISIONS

Evidence.

Evidence was insufficient to show any fraud or misrepresentation by defendant car dealer that car sold to plaintiff was new. *Zuhlke v. Anderson Buick, Inc.*, 94 Idaho 634, 496 P.2d 95 (1972).

Cited in: *Bryant Motors, Inc. v. American States Ins. Cos.*, 118 Idaho 796, 800 P.2d 683 (Ct. App. 1990).

49-1611. Display, form and custody of dealer's and salesman's license. — The department shall prescribe each form of the vehicle dealer's and salesman's license. It shall be the duty of each dealer to display conspicuously his own license in his place of business. The department shall prepare and deliver a pocket identification card, which shall certify that the person whose name appears on the card is a licensed vehicle dealer or vehicle salesman, as the case may be, and each vehicle dealer's or vehicle salesman's card shall contain a current photograph of the applicant and the date of expiration of the license. Each and every vehicle dealer and vehicle salesman shall, upon request, display his card. [1965, ch. 290, § 12, p. 759; am. 1967, ch. 62, § 10, p. 127; am. 1974, ch. 27, § 176, p. 811; am. 1982, ch. 95, § 113, p. 185; am. 1985, ch. 117, § 14, p. 242; am. and redesisg. 1988, ch. 265, § 384, p. 549; am. 1991, ch. 272, § 13, p. 686; am. 1993, ch. 297, § 2, p. 1095; am. 1998, ch. 392, § 22, p. 1197.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2412 and was amended and redesignated by § 384 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 4 of S.L. 1993, ch. 297 provided that the act shall be in full force and effect on January 1, 1994.

49-1612. Notice of change of address. — (1) The department shall not issue a dealer's license to any applicant who does not have a principal place of business. Should the dealer change the site or location of his principal place of business, he shall immediately upon making the change notify the department, and a new license shall be granted for the unexpired portion of the term of the license, providing the new location meets all the requirements for a principal place of business. Should a dealer cease to be in possession of a principal place of business from and on which he conducts the business for which he is licensed, he shall immediately notify the department and upon demand by the department shall deliver the dealer's license, which shall be held and retained until it shall be made to appear to the department that the licensee has again come into possession of a principal place of business, whereupon the dealer's license shall be reissued to him, without charge. Nothing in the provisions of this chapter shall be construed to prevent a dealer from conducting the business for which the dealer is licensed at one (1) or more licensed supplemental lots or locations not contiguous to the dealer's principal place of business but operated and maintained in conjunction with it.

(2) The department shall not issue a vehicle manufacturer's license to any applicant who does not have an established place of business within Idaho. Should the vehicle manufacturer change his established place of business within Idaho, the licensee shall immediately upon making the change, notify the department of the location and address of the new established place of business, and a new license shall be granted for the unexpired portion of the term of the license. [1965, ch. 290, § 13, p. 759; am. 1967, ch. 62, § 11, p. 127; am. 1974, ch. 27, § 177, p. 811; am. 1982, ch. 95, § 114, p. 185; am. 1985, ch. 117, § 15, p. 242; am. and redesign. 1988, ch. 265, § 385, p. 549; am. 2006, ch. 108, § 1, p. 301.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 108, added the subsection (1) designation and added subsection (2).

formerly compiled as § 49-2413 and was amended and redesignated by § 385 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-1613. Unlawful acts by licensee. — (1) It shall be unlawful for the holder of any license issued under the provisions of this chapter to:

- (a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products sold or furnished by a licensed dealer;
- (b) Violate any of the provisions of this chapter or any of the applicable rules;

- (c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen vehicle;
 - (d) Violate any law respecting commerce in vehicles or any lawful rule respecting commerce in vehicles promulgated by any licensing or regulating authority now existing or hereafter created by the laws of the state;
 - (e) Engage in the business for which the dealer is licensed without at all times maintaining a principal place of business;
 - (f) Engage in a type of business respecting the selling or exchanging of vehicles for which he is not licensed;
 - (g) Knowingly purchase a vehicle which has an altered or removed vehicle identification number plate or alter or remove a vehicle identification number plate;
 - (h) Violate any provision of this title or any rules promulgated;
 - (i) Violate any provision of the federal motor vehicle safety standards, federal odometer laws or regulations; or
 - (j) Display for sale, exchange, or sell any vehicle for which the vehicle dealer does not hold title or consignment agreement or other documentary evidence of his right to the possession of every vehicle in his possession.
- (2) It shall be unlawful for any manufacturer licensed under this chapter to require, attempt to require, coerce, or attempt to coerce, any new vehicle dealer in this state to:
- (a) Order or accept delivery of any new vehicle, part or accessory, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the new vehicle dealer. This paragraph is not intended to modify or supersede any terms or provisions of a franchise requiring dealers to market a representative line of vehicles which the manufacturer or distributor is publicly advertising.
 - (b) Order or accept delivery of any new vehicle with special features, accessories or equipment not included in the list price of such vehicles as publicly advertised by the manufacturer or distributor.
 - (c) Participate monetarily in an advertising campaign or contest, or to purchase any promotional materials, training materials, showroom or other display decorations or materials at the expense of the dealer.
 - (d) Enter into any agreement with the manufacturer or to do any other act prejudicial to the dealer by threatening to terminate or cancel a franchise or any contractual agreement existing between the dealer and the manufacturer. This paragraph is not intended to preclude the manufacturer or distributor from insisting on compliance with reasonable terms or provisions of the franchise or other contractual agreement, and notice in good faith to any dealer of the dealer's violation of those terms or provisions shall not constitute a violation of the provisions of this chapter.
 - (e) Change the capital structure of the dealer or the means by or through which the dealer finances the operation of the dealership, provided that the dealer at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria. No change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor. Consent shall not be unreasonably withheld.

(f) Refrain from participation in the management of, investment in, or the acquisition of any other line of new vehicle or related products. This paragraph does not apply unless the dealer maintains a reasonable line of credit for each make or line of new vehicle, and the dealer remains in compliance with any reasonable facilities requirements of the manufacturer, and no change is made in the principal management of the dealership.

(g) Prospectively assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability to be imposed by this chapter or to require any controversy between a dealer and a manufacturer, distributor, or representatives, to be referred to any person other than the duly constituted courts of the state or the United States, or to the director, if that referral would be binding upon the dealer.

(h) Either establish or maintain exclusive facilities, personnel, or display space.

(i) Expand facilities without a written guarantee of a sufficient supply of new vehicles so as to justify an expansion, in light of the market and economic conditions.

(j) Make significant modifications to an existing dealership or to construct a new vehicle dealership facility without providing a written guarantee of a sufficient supply of new vehicles so as to justify modification or construction, in light of the market and economic conditions.

(3) It shall be unlawful for any manufacturer licensed under this chapter to:

(a) Delay, refuse, or fail to deliver new vehicles or new vehicle parts or accessories in a reasonable time, and in reasonable quantity relative to the dealer's facilities and sales potential in the dealer's relevant market area, after acceptance of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer, any new vehicle, parts or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. These provisions are not violated, however, if failure is caused by acts or causes beyond the control of the manufacturer.

(b) Refuse to disclose to any dealer handling the same line, the manner and mode of distribution of that line within the relevant market area.

(c) Obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to the dealer.

(d) Increase prices of new vehicles which the dealer had ordered for consumers prior to the dealer's receipt of the written official price increase notification. A sales contract signed by a consumer shall constitute evidence of each such order, provided that the vehicle is in fact delivered to that customer. In the event of manufacturer price reductions or cash rebates paid to the dealer, the amount of any reduction or rebate received by a dealer shall be passed on to the private retail consumer by the dealer.

Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series shall not be considered a price increase or price decrease. Price changes caused by the addition to a vehicle of required or optional equipment, or revaluation of the United States dollar, in the case of foreign-make vehicles or components, or an increase in transportation charges due to increased rates imposed by a carrier, shall not be subject to the provisions of this subsection.

(e) Release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or dealer, any business, financial, or personal information which may be provided from time to time by the dealer to the manufacturer without the express written consent of the dealer.

(f) Deny any dealer the right of free association with any other dealer for any lawful purpose.

(g) Unfairly compete with a dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, in the relevant market area. A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of that dealership on reasonable terms and conditions.

(h) Unfairly discriminate among its dealers with respect to warranty reimbursement.

(i) Unreasonably withhold consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a dealer in this state.

(j) Fail to respond in writing to a request for consent as specified in subsection (i) of this section within sixty (60) days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for those purposes and containing the required information. Failure to respond shall be deemed to be consent to the request.

(k) Prevent or attempt to prevent, by contract or otherwise, any dealer from changing the executive management control of the dealership unless the manufacturer, having the burden of proof, can show that the change of executive management will result in executive management or control by a person or persons who are not of good moral character or who do not meet reasonable, preexisting and, with consideration given to the volume of sales and service of the dealership, uniformly applied minimum business experience standards. Where the manufacturer rejects a proposed change in executive management control, the manufacturer shall give written notice of his reasons to the dealer within sixty (60) days of notice to the manufacturer by the dealer of the proposed change; otherwise, the change in the executive management of the dealership shall be presumptively considered approved.

(l) Terminate, cancel or fail to renew any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in the granting of the franchise.

(m) Prevent or attempt to prevent the dealer, by written instrument or otherwise, from either receiving the fair market value of the dealership in a sale transaction, or from transferring the dealership to a spouse or legal heir, as specified in this chapter.

(n) Engage in any predatory practice or discrimination against any dealer.

(o) Resort to or to use any false or misleading advertisement in the conducting of his business as a manufacturer or distributor in this state.

(p) Make any false or misleading statement, either directly or through any agent or employee, in order to induce any dealer to enter into any agreement or franchise, or to take any action which is prejudicial to that dealer or his business.

(q) Require or coerce dealers to participate in local or national advertising campaigns or contests or to require or coerce dealers to purchase promotional or display materials.

(4) It is unlawful for any manufacturer or any officer, agent or representative to coerce, or attempt to coerce, any dealer in this state to sell, assign or transfer any retail installment sales contract, obtained by the dealer in connection with the sale by him in this state of new vehicles, manufactured or sold by the manufacturer, to a specified finance company or class of such companies, or to any other specified person, by any of the acts or means set forth, namely by:

(a) Any statement, suggestion, promise or threat that the manufacturer will, in any manner, benefit or injure the dealer, whether the statement, suggestion, threat or promise is express or implied or made directly or indirectly;

(b) Any act that will benefit or injure the dealer;

(c) Any contract, or any express or implied offer of contract, made directly or indirectly to a dealer for handling new vehicles, on the condition that the dealer sell, assign or transfer his retail installment sales contract in this state to a specified finance company or class of such companies, or to any other specified person; or

(d) Any express or implied statement or representation made directly or indirectly that the dealer is under any obligation whatsoever to sell, assign or transfer any of his retail sales contracts, in this state, on new vehicles manufactured or sold by that manufacturer to a finance company or class of companies, or other specified person, because of any relationship or affiliation between the manufacturer and a finance company or companies, or a specified person or persons.

Any statement, threats, promises, acts, contracts or offers of contracts, when the effect may be to lessen or eliminate competition or tend to create a monopoly, are declared unfair trade practices and unfair methods of competition, against the policy of this state, and are unlawful.

(5) It is unlawful for any manufacturer or agent or employee of a manufacturer to use a written instrument, agreement, or waiver to attempt

to nullify any of the provisions of this section, and such agreement, written instrument or waiver shall be null and void.

(6) It shall be unlawful, directly or indirectly, to impose unreasonable restrictions on the dealer relative to the sale, transfer, right to renew, termination discipline, noncompetition covenants, site control (whether by sublease, collateral pledge of lease, or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights.

(7) The provisions of this chapter shall apply to all written franchise agreements between a manufacturer and a dealer, including the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contract, advertising contract, construction or installation contract, servicing contracts and all other agreements where the manufacturer has any direct or indirect interest. [1965, ch. 290, § 14, p. 759; am. 1967, ch. 62, § 12, p. 127; am. 1970, ch. 19, § 3, p. 34; am. 1974, ch. 27, § 178, p. 811; am. 1975, ch. 17, § 1, p. 22; am. 1978, ch. 243, § 6, p. 521; am. 1985, ch. 117, § 16, p. 242; am. 1988, ch. 264, § 29, p. 519; am. and redesign. 1988, ch. 265, § 386, p. 549; am. 1991, ch. 272, § 14, p. 686; am. 1994, ch. 317, § 1, p. 1015; am. 2005, ch. 144, § 1, p. 451.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2414 and was amended and redesignated by § 386 of S.L. 1988, ch. 265 to become this section. The words in parentheses so appeared in the law as enacted.

49-1614. Termination, cancellation or nonrenewal. — (1) Notwithstanding the terms, provisions or conditions of any franchise, or any waiver, a manufacturer shall not cancel, terminate or fail to renew any franchise with a dealer unless the manufacturer has satisfied the notice requirement of subsection (2) of this section, and has good cause for cancellation, termination or nonrenewal.

(2) Notwithstanding the terms, provisions or conditions of any franchise prior to the termination, cancellation or nonrenewal of any franchise, the manufacturer shall furnish notification of termination, cancellation or nonrenewal to the department and the dealer:

(a) In the manner described in paragraph (b) [subsection (3)] of this subsection [section]; and

(b) Not less than ninety (90) days prior to the effective date of termination, cancellation or nonrenewal; or

(c) Not less than fifteen (15) days prior to the effective date of termination, cancellation or nonrenewal with respect to any of the following:

1. Insolvency of the dealership, or filing of any petition by or against the dealership under any bankruptcy or receivership law;
2. Failure of the dealership to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the dealer;

3. Conviction of the dealer, or any owner or his operator, resulting in imprisonment exceeding thirty (30) days;
4. Revocation of any license which the dealer is required to have to operate a dealership; and
- (d) Not less than one hundred eighty (180) days prior to the effective date of termination or cancellation, where the manufacturer is discontinuing the sale of the product line.
- (3) Notification under this section shall be in writing, by certified mail or personally delivered to the dealer; and shall contain a statement of intention to terminate, cancel or not to renew the franchise, and a statement of the reasons for and the date on which termination, cancellation or nonrenewal takes effect.
- (4) Notwithstanding the terms, provisions or conditions of any franchise or of any waiver, good cause shall exist for the purposes of a termination, cancellation or nonrenewal when there is a failure by the dealer to comply with a provision of the franchise, where the provision is both reasonable and of material significance to the franchise relationship, and provided that the dealer has been notified in writing of the failure within one hundred eighty (180) days prior to termination, cancellation or nonrenewal. A protest may be filed in accordance with the provisions of section 49-1617, Idaho Code.
- (5) Notwithstanding any agreement, the following shall not constitute good cause for a termination, cancellation or nonrenewal of a franchise agreement: the fact that the dealer owns, has an investment in, participates in the management of or holds a franchise agreement for the sale or service of another make or line of motor vehicles; or that the dealer has established another make or line of new motor vehicles or service in the same dealership facilities as those of the manufacturer or distributor which existed prior to January 1, 1997; or is approved in writing by the manufacturer.
- (6) The manufacturer shall have the burden of proof under this section concerning the issue of good cause, which shall include, but not be limited to, termination, nonrenewal or cancellation of any franchise by the manufacturer for insolvency, license revocation, conviction of a felony, fraud by a dealer or failure by a dealer to comply with a provision of the franchise, where the provision is both reasonable and of material significance to the franchise relationship.
- (7)(a) Upon the termination, nonrenewal or cancellation of any franchise by the manufacturer, other than the manufacturer of recreational vehicles as defined in section 49-119, Idaho Code, with the exception of van type vehicles converted to recreational use, without good cause, the manufacturer shall pay to the dealer the fair market value of his business as a going concern. On payment, the dealer shall convey his business, free of liens and encumbrances, to the manufacturer, distributor or factory branch.
- (b) Upon the termination, nonrenewal or cancellation of any franchise by a manufacturer of recreational vehicles without good cause, the recreational vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for the:
 1. New vehicle inventory which has been acquired from the manufacturer;

2. Supplies and parts which have been acquired from the manufacturer;
3. Equipment and furnishings, provided the licensee purchased from the manufacturer or its approved source; and
4. Special tools.

(8) Fair and reasonable compensation for the above shall be paid by the manufacturer within ninety (90) days of the tender of the property, provided the licensee has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.

(9) In the event of a termination, cancellation or nonrenewal by the manufacturer under this section except termination, cancellation or nonrenewal by the manufacturer for insolvency, license revocation, conviction of a crime or fraud by a dealer, the manufacturer shall pay a sum equivalent to rent of the unexpired term of the lease or one (1) year rent, whichever is less, if the motor vehicle dealer is leasing its motor vehicle dealership facility from a lessor other than manufacturers or distributors, or a sum equivalent to reasonable rental value of the dealership facility for one (1) year or the reasonable rental value of the facility until facilities are leased, whichever is less, if the motor vehicle dealer owns the motor vehicle dealer facility.

(10) The rental payment required under subsection (9) of this section is only required to the extent that the facilities were used for the sale and service of the manufacturer's or distributor's product, and only to the extent they are not leased for other purposes. Payment under subsection (9) of this section shall entitle the manufacturers or distributors to possession and use of the facility. [I.C., § 49-2415, as added by 1985, ch. 117, § 17, p. 242; am. and redesign. 1988, ch. 265, § 387, p. 549; am. 1997, ch. 312, § 1, p. 923.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2415 and was amended and redesignated by § 387 of S.L. 1988, ch. 265 to become this section.

The bracketed reference in paragraph (2)(a) was added by the publisher to conform the reference to the revision of Title 49, by S.L. 1988, Chapter 265.

49-1615. Succession to ownership. — Notwithstanding the terms, provisions or conditions of any franchise:

(1) A licensee may appoint by will, or any other written instrument, a designated family member to succeed in the ownership interest in the dealership.

(2) Unless there exists good cause for refusal to honor succession on the part of the manufacturer, any designated family member of a deceased or incapacitated owner of a dealership may succeed to the ownership under the existing franchise, provided the designated family member gives the manufacturer written notice of his intention to succeed to the ownership of the dealership within one hundred twenty (120) days of the owner's death or incapacity, and the designated family member agrees to be bound by all the terms and conditions of the franchise.

(3) The manufacturer may request, and the designated family member shall provide, promptly upon request, personal and financial data that is reasonably necessary to determine whether the succession should be honored.

(4) If a manufacturer believes that good cause exists for refusing to honor the succession to the ownership of a dealership by a family member of a deceased or incapacitated owner of a dealership under the existing franchise agreement, the manufacturer may, not more than sixty (60) days following receipt of notice of the designated family member's intent to succeed to the ownership of the dealership, or any personal or financial data which it has requested, serve upon the designated family member and the department, notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the dealer no sooner than ninety (90) days from the date notice is served. The notice must state the specific grounds for a refusal to honor the succession. A protest may be filed in accordance with the provisions of section 49-1617, Idaho Code.

(5) If notice of refusal and discontinuance is not timely served upon the family member, the franchise shall continue in effect subject to termination only as otherwise permitted under this chapter.

(6) This chapter does not preclude the owner of a dealership from designating any person as his successor by written instrument filed with the manufacturer and, in the event there is a conflict between that written instrument and the provisions of this section, and that written instrument has not been revoked by the owner of the dealership, in writing, to the manufacturer, then the written instrument shall govern. [I.C., § 49-2416, as added by 1985, ch. 117, § 18, p. 242; am. and redesisg. 1988, ch. 265, § 388, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 388 of S.L. formerly compiled as § 49-2416 and was 1988, ch. 265 to become this section.

49-1616. Limitations on establishing or relocating dealers. —

(1) In the event that a manufacturer seeks to enter into a franchise establishing an additional dealership or relocating an existing dealership within a radius of ten (10) miles from where the same line is represented, the manufacturer shall in writing, first notify the department and each dealer for the line within the ten (10) mile radius, at least sixty (60) days prior to the addition or relocation, of the intention to establish an additional dealership or to relocate an existing dealership within the ten (10) mile radius.

(2) This section shall not apply to the relocation of an existing dealer within that dealer's relevant market area, provided that the relocation not be at a site within a radius of seven (7) miles of a licensed franchise for the same line make of vehicle, or if the proposed franchise is to be established at or within a radius of two (2) miles of a location at which a former franchise for the same line make of new vehicle had ceased operating within the previous two (2) years. If the seven (7) and two (2) mile exceptions are

not applicable, the relocation may still be possible upon notice and resolution of protest under subsections (1) and (3) of this section.

(3) A protest may be filed in accordance with the provisions of section 49-1617, Idaho Code. [I.C., § 49-2417, as added by 1985, ch. 117, § 19, p. 242; and redesignig. 1988, ch. 265, § 389, p. 549; am. 2000, ch. 184, § 1, p. 453.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 389 of S.L. formerly compiled as § 49-2417 and was 1988, ch. 265 to become this section.

49-1617. Protests — Hearings — Costs. — (1) Within twenty (20) days of receiving notice or within twenty (20) days after the end of any appeal procedure provided by a manufacturer, a dealer, in respect to termination, cancellation or nonrenewal of a franchise, or establishing or relocating a dealership, or a designated family member for a refusal to honor the succession of the dealership, may file with the department to protest termination or refusal to honor the succession. When a protest is filed, the department shall inform the manufacturer that a timely protest has been filed and the manufacturer shall have twenty (20) days to respond to the protest. The manufacturer shall not terminate, establish a new or relocate a dealership, or discontinue the existing franchise until the department has held a hearing, nor subsequently, if the department has determined that there is not good cause for permitting the termination, addition, relocation or succession, or that the manufacturer is not acting in good faith.

(2) The department shall select a hearing examiner to conduct a hearing and render proposed findings of fact. In determining whether good cause for termination exists the proposed findings of fact shall be conclusive unless clearly erroneous and unsupported by the record. In determining whether good cause for the refusal to honor the succession exists, the manufacturer has the burden of proving that the successor is a person who is not of good moral character or does not meet the manufacturer's existing and reasonable standards and, considering the volume of sales and service of the dealership, uniformly applied minimum business experience standards in the consumer consumption channel. In determining whether good cause had been established for not entering into or relocating an additional franchise for the same line make, the department shall take into consideration the existing circumstances including:

- (a) Permanency of the investment of both the existing and proposed franchises;
- (b) Growth or decline in population and new car registrations in the consumer consumption area;
- (c) Effect on the consuming public in the relevant market area;
- (d) Whether it is injurious or beneficial to the public welfare for an additional franchise to be established;
- (e) Whether the franchises for the same line make in that relevant consumption area are providing adequate competition and convenient customer care for the vehicles of the line make in the market area, which

shall include the adequacy of vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

(f) Whether the establishment of an additional franchise would increase competition and be in the public interest.

(3) The department shall render its final determination within one hundred twenty (120) days after the manufacturer responds to the protest. Unless waived by the parties, failure to do so shall be deemed the equivalent of a determination that good cause does exist for termination, addition, relocation, or nonhonor of the succession, unless the delay is caused by acts of the manufacturer.

(4) All costs of the department, including the cost of the hearing examiner and the cost of preparing the record, shall be borne equally by the parties. The department may in its discretion award costs to the prevailing party in any hearing held pursuant to this chapter. [I.C., § 49-1617, as added by 1988, ch. 265, § 390, p. 549.]

49-1618. Denial or revocation of license requires hearing. —

(1) Before the department shall refuse to issue to any applicant a license provided for in this chapter, and before revoking or suspending any license, it shall give the applicant or licensee written notice of the action which the department contemplates taking with respect to the application or license, which shall provide that on or before a day certain, not less than twenty (20) days from the date on which written notice shall be served, the applicant or licensee shall show cause, if any, in writing duly verified and filed with the department, why the contemplated action should not be taken. Upon receipt of the written showing, the department shall fix a day certain, not less than fifteen (15) days nor more than thirty (30) days from the date on which it received the showing, when it will hear evidence and argument in support of it. Written notice of the date and place of hearing shall be given to the applicant or licensee, not less than ten (10) days prior to the date fixed for hearing. All hearings shall be held in Ada County, Idaho. A record or tape or other recording device of all proceedings had at the hearing shall be made and preserved, pending final disposition of the matter.

(2) Notice to the applicant or licensee that the department contemplates refusing to issue the license applied for or contemplates revoking or suspending a license duly issued by it, shall have attached to it a complete statement of the facts upon which the department bases its contemplated action. In any proceeding under this section, the department shall have the burden of proving that the applicant is not qualified, or that the licensee has violated a provision of this chapter or a rule or regulation of the department.

(3) The notices provided to be given to an applicant or a licensee shall be served by the department or its employees delivering the notice to the applicant or licensee personally, or by the department mailing the notice by certified mail to:

(a) The applicant for a license at the residence address given in his application for license;

(b) A licensed dealer or at the last known address of the principal place of business of the dealer; and

(c) A licensed salesman at his last known residence address.

(4) The date on which the notice shall be considered to have been served for purposes of computing time shall be the date on which the notice is delivered to the applicant or licensee personally, or the date on which the notice is mailed.

(5) The director or his designee shall preside at all hearings and the department shall request the attendance of the advisory board at hearings. At the conclusion of the hearing, the hearing officer shall make written findings of fact and recommendations to the director. The findings of fact shall be conclusive unless clearly erroneous and unsupported by the record. The director shall issue a written order which shall be the final administrative action of the department.

(6) If a dealer's license is suspended as a result of an order of the director, the department shall conspicuously post two (2) notices of such suspension at each licensed location. The notices shall remain posted for the duration of the suspension and removal of the notice prior to that time shall be deemed a violation of the provisions of this chapter. [I.C., § 49-2418, as added by 1985, ch. 117, § 20, p. 242; am. and redesign. 1988, ch. 265, § 391, p. 549; am. 1991, ch. 272, § 15, p. 686.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 391 of S.L. formerly compiled as § 49-2418 and was 1988, ch. 265 to become this section.

49-1619. Production of witnesses and documents. — In the preparation and conduct of hearings, the department has the power to require the attendance and testimony of any witness, the production of any papers or books, may sign and issue subpoenas, administer oaths and examine witnesses, and take any evidence it considers pertinent to the determination of the matter, and any witnesses so subpoenaed shall be entitled to the same fees and mileage as prescribed by law in judicial proceedings in the district court of this state in civil action, but the payment of fees and mileage must be out of, and kept within the limits of, the funds created from license fees authorized in this chapter. The party against whom the matter may be pending shall have the right to obtain a subpoena from the department for any witnesses he may desire at the hearing, and depositions may be taken as in civil court cases in the district court. Any information obtained from the books and records of the person complained against may not be used against him as the basis for a criminal prosecution under the laws of this state. [I.C., § 49-2419, as added by 1985, ch. 117, § 21, p. 242; am. and redesign. 1988, ch. 265, § 392, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 392 of S.L. formerly compiled as § 49-2419 and was 1988, ch. 265 to become this section.

49-1620. Report of findings. — The director shall state in writing his decision after the hearing. If the director determines that an applicant is not qualified to receive a license, no license shall be granted, and if the director determines that a license holder has violated any of the provisions of this chapter or of a rule or regulation promulgated by the department, the director may suspend the license on terms and conditions and for a period of time as to the director appears fair, reasonable and just, or the director may revoke the license. [I.C., § 49-2420, as added by 1985, ch. 117, § 22, p. 242; am. and redesisg. 1988, ch. 265, § 393, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 393 of S.L. formerly compiled as § 49-2420 and was 1988, ch. 265 to become this section.

49-1621. Judicial review. — Any party to a hearing before the department, or any party to a hearing has the right to judicial review in the district court. Appeals shall be as provided in chapter 52, title 67, Idaho Code. [I.C., § 49-2421, as added by 1985, ch. 117, § 23, p. 242; am. and redesisg. 1988, ch. 265, § 394, p. 549; am. 1993, ch. 216, § 49, p. 587.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 394 of S.L. formerly compiled as § 49-2421 and was 1988, ch. 265 to become this section.

49-1622. Product liability responsibility. — A manufacturer must file with the department a copy of the delivery and preparation obligations required to be performed by a dealer prior to the delivery of a new vehicle to a buyer. These delivery and preparation obligations constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from an express or implied warranty of the manufacturer constitute the manufacturer's product or warranty liability only, as between the manufacturer and the dealer. The provisions of this section shall not affect the obligation of dealers to perform warranty repair and maintenance as may be required by law or contract. [I.C., § 49-2423, as added by 1985, ch. 117, § 25, p. 242; am. and redesisg. 1988, ch. 265, § 395, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 395 of S.L. formerly compiled as § 49-2423 and was 1988, ch. 265 to become this section.

49-1623. Product liability indemnification. — Notwithstanding the terms of any franchise agreement, it shall be unlawful for any manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement for damages, including court costs and reasonable attorney fees of the dealer, arising out of complaints, claims or lawsuits including strict liability, negligence, misrepresentation, warranty (express

or implied), or rescission of the sale, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly or design of new vehicles, parts or accessories or other functions by the manufacturer, beyond the control of the dealer. [I.C., § 49-2424, as added by 1985, ch. 117, § 26, p. 242; am. and redesisg. 1988, ch. 265, § 396, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 396 of S.L. formerly compiled as § 49-2424 and was 1988, ch. 265 to become this section.

49-1624. Disclosure of damage required. — On any new vehicle, any uncorrected damage or any corrected damage exceeding six percent (6%) of the manufacturer's suggested retail price, as measured by retail repair costs, must be disclosed in writing prior to delivery. Damage to glass, tire and bumpers is excluded from the six percent (6%) requirement when replaced by identical manufacturer's original equipment. [I.C., § 49-2425, as added by 1985, ch. 117, § 27, p. 242; am. and redesisg. 1988, ch. 265, § 397, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 397 of S.L. formerly compiled as § 49-2425 and was 1988, ch. 265 to become this section.

49-1625. Repaired damage not grounds for rejection. — Repaired damage to a customer-ordered new vehicle, not exceeding the six percent (6%) requirement, shall not constitute grounds for rejection of the customer order. The customer's right of rejection ceases upon his acceptance of delivery of the vehicle, provided disclosure as required in section 49-1624, Idaho Code, is made prior to delivery. [I.C., § 49-2426, as added by 1985, ch. 117, § 28, p. 242; am. and redesisg. 1988, ch. 265, § 398, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 398 of S.L. formerly compiled as § 49-2426 and was 1988, ch. 265 to become this section.

49-1626. Payment for delivery preparation and warranty service. — (1) Each manufacturer shall specify in writing to each of its dealers licensed in this state, the dealer's obligations for predelivery preparation and warranty service on its products, compensate the dealer for service required of the dealer by the manufacturer, provide the dealer a schedule of compensation to be paid the dealer for parts, work and service in connection with its products, and the time allowance for the performance of that work and service.

(2) In no event shall a schedule of compensation fail to include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed.

(3) It is unlawful for a new vehicle manufacturer to fail to perform any warranty obligations or to fail to include in written notices of factory recalls to new vehicle owners and dealers, the expected date by which necessary parts and equipment will be available to dealers for the correction of those defects, or to fail to compensate any of the dealers in this state for repairs affected by recall.

(4) All claims made by dealers pursuant to this section for labor and parts shall be paid within thirty (30) days following their approval. The manufacturer retains the right to audit claims and to charge the dealer for unsubstantiated, incorrect, or false claims for a period of one (1) year following payment. Provided however, that the manufacturer may audit and charge the dealer for fraudulent claims during any period for which an action for fraud may be commenced. All claims shall be either approved or disapproved within thirty (30) days after their receipt, on forms and in the manner specified by the manufacturer, and any claim not specifically disapproved in writing within thirty (30) days after receipt shall be construed to be approved and payment must follow within thirty (30) days. [I.C., § 49-2427, as added by 1985, ch. 117, § 29, p. 242; am. and redesign. 1988, ch. 265, § 399, p. 549; am. 1997, ch. 312, § 2, p. 923.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 399 of S.L. formerly compiled as § 49-2427 and was 1988, ch. 265 to become this section.

49-1627. Use of dealer and manufacturer license plate. — (1) Any dealer or manufacturer license plate issued may, during the calendar year for which issued, be transferred from one (1) vehicle to another owned or operated by such manufacturer or dealer, in pursuance of his business as a manufacturer or dealer.

(2) Dealer plates shall not be used on vehicles under the following circumstances:

- (a) On work or service vehicles not held in stock for sale;
- (b) On leased or rented vehicles owned by the licensed manufacturer or dealer;
- (c) On a laden vehicle designed for transportation of cargo, unless the manufacturer or dealer has complied with section 49-434, Idaho Code, except as provided in subsection (3) of this section;
- (d) On vehicles which have been sold;
- (e) On vehicles used by the licensee for furtherance of another business;
- (f) On vehicles owned by a licensed wholesaler used for personal use;
- (g) On vehicles owned by a licensed wholesaler, operated by their licensed salesmen, used for personal use.

(3) Dealer and manufacturer plates may be used on laden vehicles operated by the manufacturer, dealer or his licensed vehicle salesman, in connection with the manufacturer's or dealer's business. A dealer plate may be used on a laden trailer in connection with a manufacturer's or dealer's business to move vehicles or trailers from a manufacturer to a dealer, from dealership to dealership or from a dealership to off-site locations in

promotion of the dealer's business as long as the power unit is properly licensed under chapter 4, title 49, Idaho Code. A dealer plate may be used on a vehicle assigned for personal use on a full-time basis to the dealer, or licensed full-time vehicle salesman. This personal use exception applies only to the manufacturer, dealer, or licensed full-time vehicle salesman personally, and any other persons, including members of their families, are excluded. A prospective purchaser of a vehicle may have possession of the vehicle with a dealer plate for not more than ninety-six (96) hours or may operate the vehicle when accompanied by the manufacturer, dealer or a licensed vehicle salesman.

(4) Licensed part-time vehicle salesmen may use a dealer plate on a vehicle that is offered for sale only to demonstrate the vehicle to a purchaser, but not for personal use. Other employees or authorized persons, not licensed as a vehicle salesman, may use a dealer plate when testing the mechanical operation of a vehicle or for the necessary operation in pursuance of the dealer's business, including the delivery and pickup of vehicles owned or purchased by that manufacturer or dealer.

(5) Vehicle manufacturers and dealers shall keep a written record of the vehicles upon which dealer's number plates are used for personal use on a full-time basis, and the time during which each plate is used. The record shall be open to inspection by any peace officer or any officer or employee of the department.

(6) No manufacturer or dealer shall cause or permit any vehicle owned by them to be operated or moved upon a public highway without displaying upon the vehicle a license plate issued to that person, either under the provisions of this section or section 49-428, Idaho Code, except as otherwise authorized in section 49-431, Idaho Code. [I.C., § 49-2428, as added by 1985, ch. 117, § 30, p. 242; am. and redesign. 1988, ch. 265, § 400, p. 549; am. 2006, ch. 223, § 1, p. 664.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 223, added the exception in subsection (2)(c); and in subsection (3), inserted "laden" in the first sentence and added the second sentence.

Compiler's Notes. — This section was formerly compiled as § 49-2428 and was amended and redesignated by § 400 of S.L. 1988, ch. 265 to become this section.

49-1628. Use of vehicle dealer loaner plate. — (1) A dealer shall maintain a log showing the vehicle identification number, date, reason for use, and the name of the person authorized to use the plate.

(2) The user of a loaner plate shall carry identification showing dealer name, number on plate, signature of dealer and year for which the plate is valid.

(3) Loaner plates may be used on vehicles held in stock for sale which are loaned to a customer of a dealership while the customer vehicle is being repaired, and, on vehicles held in stock for sale and operated by the dealer or his family for personal use or for furtherance of dealership business.

(4) Loaner plates may not be used on:

(a) Work or service vehicles not held in stock for sale;

- (b) Leased or rented vehicles owned by the licensed dealer;
- (c) A laden vehicle designed for transportation of cargo, unless the dealer has complied with the provisions of section 49-434, Idaho Code;
- (d) Vehicles which have been sold;
- (e) Vehicles used by licensee for furtherance of another business;
- (f) Vehicles used for personal use by licensed salesman or other nonlicensed employees of the dealership;
- (g) Vehicles of which the dealer does not have legal ownership;
- (h) Vehicles being operated by an actual purchaser. [I.C., § 49-2436, as added by 1985, ch. 117, § 38, p. 242; am. and redesisg. 1988, ch. 265, § 401, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 401 of S.L. formerly compiled as § 49-2436 and was 1988, ch. 265 to become this section.

49-1629. Odometers. — (1) Nothing in this chapter shall prevent the service, repair or replacement of an odometer, provided the mileage as defined in section 49-114, Idaho Code, indicated remains the same as before the service, repair or replacement. Where the odometer is incapable of registering the same mileage as before service, repair or replacement, the odometer shall be adjusted to read zero and a notice shall be attached permanently to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Provided however, the notice shall not be required if the odometer reading is converted from registering in kilometers to miles, and the mileage on the vehicle after the conversion of the odometer is equivalent to its mileage before the conversion. No person shall:

- (a) Fail to adjust an odometer or affix a notice regarding adjustment, as required under this section.
 - (b) With intent to defraud, remove or alter any notice affixed to a vehicle pursuant to the provisions of this section.
- (2) It shall be unlawful for any person to:
- (a) Disconnect, turn back, or reset the odometer of any vehicle with the intent to reduce the number of miles indicated on the odometer gauge.
 - (b) Sell a vehicle in this state if that person has knowledge that the odometer on the vehicle has been turned back or replaced, and if the person fails to notify the buyer prior to the time of the sale, that the odometer has been turned back or replaced, or that he has reason to believe that the odometer has been turned back or replaced.
 - (c) Advertise for sale, to sell, to use, or to install on any part of a vehicle or on an odometer in a vehicle, any device which causes the odometer to register any mileage other than the true mileage driven. [I.C., §§ 49-2429 — 49-2430, 49-2433, as added by 1985, ch. 117, §§ 31-33, 35, p. 242; am. and redesisg. 1988, ch. 265, § 402, p. 549; am. 2005, ch. 145, § 2, p. 456.]

STATUTORY NOTES

Compiler's Notes. — Section 402 of S.L. §§ 49-2429, 49-2430, 49-2431 and 49-2433 to 1988, ch. 265 amended and redesignated become this section.

49-1630. Purchaser plaintiff to recover costs and attorney's fees. — In any suit brought by the purchaser of a vehicle against the seller of that vehicle, the purchaser shall be entitled to recover his court costs and a reasonable attorney's fee fixed by the court, if:

(1) The suit or claim is based substantially upon the purchaser's allegation that the odometer on the vehicle has been tampered with or replaced contrary to this chapter; and

(2) It is found in the suit that the seller of the vehicle or any of his employees or agents knew or had reason to know that the odometer on the vehicle had been tampered with or replaced, and failed to disclose that knowledge to the purchaser prior to the time of sale. [I.C., § 49-2434, as added by 1985, ch. 117, § 36, p. 242; am. and redesign. 1988, ch. 265, § 403, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 403 of S.L. formerly compiled as § 49-2434 and was 1988, ch. 265 to become this section.

49-1631. Brokers. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised 1988, ch. 265, § 404, p. 549, was repealed by S.L. 1991, ch. 272, § 16.

49-1632. Applicability of chapter. — (1) Any person who engages directly or indirectly in purposeful contacts within this state in connection with the offering or advertising for sale, or has business dealings with respect to a new vehicle sale within this state, shall be subject to the provisions of this chapter and shall be subject to the jurisdiction of the courts of this state.

(2) The applicability of this chapter shall not be affected by a choice of law clause in any franchise, agreement, waiver, novation, or any other written instrument.

(3) Any provision of any agreement, franchise, waiver, novation or any other written instrument which is in violation of any section of this chapter shall be considered null and void and without force and effect.

(4) It shall be unlawful for a manufacturer to use any subsidiary corporation, affiliated corporation, or any other controlled corporation, partnership, association or person to accomplish what would otherwise be unlawful conduct under this chapter on the part of the manufacturer.

(5) Nothing in this chapter shall be construed to impair the obligations of a contract entered into prior to January 1, 1989, or to prevent a manufacturer, distributor, representative or any other person, whether or not

licensed under this chapter, from requiring performance of a prior written contract entered into with any dealer, nor shall the requirement of performance constitute a violation of any of the provisions of this chapter. Any contract, or the terms of it, requiring performance, shall have been freely entered into and executed between the contracting parties. This chapter shall apply to any amendments, novations, records or modifications of prior contracts and to any contracts entered into subsequent to March 31, 1989. [I.C., § 49-2437, as added by 1985, ch. 117, § 39, p. 242; am. and redesisg. 1988, ch. 265, § 405, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 405 of S.L. formerly compiled as § 49-2437 and was 1988, ch. 265 to become this section.

49-1633. Limitations. — (1) Actions arising out of any provision of this chapter shall be commenced within a four (4) year period of the accrual of the cause of action. If a person liable under this chapter conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of his cause of action by the person entitled shall be excluded in determining the time limited for the commencement of the action.

(2) If a cause of action accrues during the pendency of any civil, criminal or administrative proceeding against a person brought by the United States, or any of its agencies under the antitrust laws, the federal trade commission act, or any other federal act, or the laws or to franchising, such actions may be commenced within one (1) year after the final disposition of the civil, criminal or administrative proceeding. [I.C., § 49-2439, as added by 1985, ch. 117, § 41, p. 242; am. and redesisg. 1988, ch. 265, § 406, p. 549.]

STATUTORY NOTES

Federal References. — The federal trade commission act, referred to in subsection (2), is codified as 15 U.S.C.S. § 41 et seq. amended and redesignated by § 406 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was formerly compiled as § 49-2439 and was 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-1634. Dealer sales — Minimum sales required for license renewal. — (1) A vehicle dealer shall certify upon application for renewal of his dealer's license that during the preceding licensing year he sold at least five (5) vehicles, either at retail or wholesale.

(2) Failure to sell or to verify the sale of a minimum of five (5) vehicles shall be grounds for the department to deny renewal of the dealer's license.

(3) Any vehicle dealer who has had his license denied or has failed to meet the requirement to sell a minimum of five (5) vehicles during the preceding licensing year is entitled to a hearing as provided in section 49-1618, Idaho Code. [I.C., § 49-1634, as added by 1991, ch. 272, § 17, p. 686; am. 1993, ch. 297, § 3, p. 1095.]

STATUTORY NOTES

Effective Dates. — Section 4 of S.L. 1993, ch. 297 provided that the act shall be in full force and effect on January 1, 1994.

49-1635. Salesman sales — Minimum sales required for license renewal. — (1) A full-time salesman shall certify upon application for renewal of his license that he sold at least five (5) vehicles, either at retail or wholesale, during each of the preceding years in which his license was in effect.

(2) Failure to sell or to verify the sale of a minimum of five (5) vehicles in each of the preceding years his license was in effect, shall be grounds for the department to deny renewal of the salesman's license.

(3) Any full-time salesman who has had his license denied or has failed to meet the minimum sales requirement is entitled to a hearing as provided in section 49-1618, Idaho Code. [I.C., § 49-1635, as added by 1991, ch. 272, § 18, p. 686.]

49-1636. Consignment sales. — (1) An owner who consigns a vehicle to a vehicle dealer to be offered for sale or exchange on behalf of the owner to a third party purchaser, shall provide the dealer with either the certificate of title to the vehicle along with a power of attorney designating the dealer as an agent of the owner, or a duly executed consignment agreement between the dealer and the owner, along with a copy of the certificate of title of the vehicle being consigned.

(2) A consignment agreement shall contain at the least, the following:

(a) The name and current address of the owner of the vehicle as shown on the certificate of title;

(b) The name and current address of any person holding a lien on the vehicle;

(c) The name of the consignee;

(d) A description of the vehicle including the vehicle's make, model, vehicle identification number and odometer reading; and

(e) A statement that the owner has appointed the vehicle dealer as his agent for the purpose of offering the vehicle for sale. [I.C., § 49-1636, as added by 1991, ch. 272, § 19, p. 686.]

49-1637. Education requirements for vehicle dealers. — (1) Except as provided in subsection (2) of this section, the following continuing education requirements shall apply to a vehicle dealer for an initial dealer's license and for the annual renewal, as provided in sections 49-1607(3) and 49-1634, Idaho Code, of a dealer's license:

(a) An applicant for an annual renewal of a dealer's license must complete a four (4) hour education program as described in subsection (3) of this section prior to submitting a renewal application for a vehicle or vessel dealer license.

(b) An applicant requesting an initial vehicle or vessel dealer's license shall be required to pass a comprehensive open book examination prior to submitting a license application.

(2) The education requirements of subsection (1) of this section do not apply to an applicant for a full-time or part-time vehicle salesman's license, manufacturer's license, distributor's license or wholesale dealer's license. The following applicants are also exempt from the provisions of subsection (1) of this section:

(a) A vehicle dealer of nationally advertised and recognized new motor vehicles or vessels; and

(b) A franchise dealer of new recreational vehicles, new motorcycles, new all-terrain vehicles, new snowmobiles or new vessels.

(3) The continuing education programs and written open book examination required in subsection (1) of this section shall be developed with input from motor vehicle industry organizations including, but not limited to, the Idaho independent automobile dealers association, and shall be approved by the department.

(4) The continuing education programs required in subsection (1) of this section may be provided by accredited educational institutions, private vocational schools, correspondence schools or trade associations, provided that the continuing education program has been approved by the department as required in subsection (3) of this section.

(5) The department may promulgate rules as necessary to implement the provisions of this section. [I.C., § 49-1637, as added by 2003, ch. 98, § 2, p. 315.]

STATUTORY NOTES

Effective Dates. — Section 3 of S.L. 2003, ch. 98 provided that the act should take effect on and after January 1, 2004.

49-1638. Manufacturer incentive programs for motor vehicle dealers. — (1) A manufacturer or distributor shall pay a motor vehicle dealer's claim for payment or other compensation due under a manufacturer incentive program within thirty (30) business days after receiving the claim, unless the claim is disapproved by written notice, with reasons stated, within thirty (30) business days of receipt of the dealer's claim. A claim that is not disapproved or disallowed in writing within thirty (30) business days after the manufacturer or distributor receives the claim is deemed automatically approved.

(2) A manufacturer shall not deny a claim based solely on a motor vehicle dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error or other administrative technicality that does not put into question the legitimacy of the claim.

(3) A dealer shall have sixty (60) days from the date of notification by a manufacturer or distributor of a denial or a charge-back to the dealer to resubmit a claim for payment or compensation if the claim was denied for a dealer's incidental failure as set forth in subsection (2) of this section, whether the charge-back was a direct or an indirect transaction.

(4) A motor vehicle dealer has ninety (90) days after the expiration of a manufacturer or distributor incentive program, or such longer time as

provided by the franchise agreement, whichever is greater, to submit a claim for payment or compensation under the program.

(5) Notwithstanding the terms of a franchise agreement or other contract with a dealer and except as provided in subsection (6) of this section, after the expiration of one (1) year after the date of payment of the vehicle claim, a manufacturer or distributor shall not:

(a) Charge back to a motor vehicle dealer, whether directly or indirectly, the amount of a claim that has been approved and paid by the manufacturer or distributor under an incentive program;

(b) Charge back to a motor vehicle dealer, whether directly or indirectly, the cash value of a prize or other thing of value awarded to the dealer under an incentive program; or

(c) Audit the records of a motor vehicle dealer to determine compliance with the terms of an incentive program.

(6) A manufacturer or distributor may make charge-backs to a motor vehicle dealer if, after completion of an audit of the dealer's records, the manufacturer or distributor can show, by a preponderance of the evidence, that:

(a) With respect to a claim under a service incentive program, the repair work was improperly performed in a substandard manner or was unnecessary; or

(b) The claim is unsubstantiated in accordance with the manufacturer's or distributor's reasonable requirements.

(7) Notwithstanding subsections (5) and (6) of this section, a manufacturer or distributor may make charge-backs to a motor vehicle dealer for fraud at any time permitted by section 5-218, Idaho Code. [I.C., § 49-1638, as added by 2007, ch. 251, § 1, p. 736.]

CHAPTER 17

LABOR AND MATERIAL LIENS

SECTION.

49-1701. Labor and material liens on motor vehicles.

49-1701A. [Amended and Redesignated.]

49-1702. Form for notice of lien.

49-1703. Assignment of lien.

49-1704. Revival of lost liens.

49-1705. Sale to satisfy liens.

SECTION.

49-1706. Release of owner's interest in vehicle.

49-1707. Notice of sale.

49-1708. Inspection prior to sale.

49-1709. Disposition of proceeds.

49-1710. Unlawful removal or obtaining of vehicle subject to lien.

49-1701. Labor and material liens on motor vehicles. — Every person has a lien, dependent upon possession, for the compensation to which he is legally entitled for making repairs or performing labor upon, and/or for the furnishing supplies or materials for, and/or for the towing, storage, repair or safekeeping of, and/or for the rental of parking space for any vehicle of a type subject to registration under the motor vehicle code, and upon the contents thereof. [I.C., § 49-3502, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 408, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3502 and was amended and redesignated by § 408 of S.L. 1988, ch. 265 to become this section.

Former § 49-1701 was amended and redesignated as § 49-2426 by § 486 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-1701A. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-1701A was amended and redesignated as § 49-2427 by § 487 of S.L. 1988, ch. 265.

49-1702. Form for notice of lien. — To claim the benefits of the provisions of this chapter a lien claimant shall, prior to making any repairs, provide notice to the registered and legal owner of a motor vehicle of intended repairs, service, or storage at the request of a person in possession of the vehicle. The notice shall be substantially in the following form:

To: (Name of registered and legal owner and addresses)

Notice is hereby given, in accordance with the provisions of, Idaho Code, that the undersigned, of, (address) has been requested by, of, (address), (the registered owner, or agent thereof), to (repair or as the case may be) the following described motor vehicle of which you are designated the registered or legal owner on the title: (specify year, make and model), (vehicle identification no.), (license no.) If appropriate, add: The repairs requested are as follows:

The undersigned intends to begin such (repairs or as the case may be) on approximately,

The approximate charges for the services requested will be \$...., and the undersigned will claim a lien on the vehicle for the actual amount of such charges.

In accordance with the provisions of sections and, Idaho Code, the undersigned requests that you consent to the performance of (such repairs or as the case may be) by signing and returning the enclosed copy of this notice.

Dated,

.....
(Signature)

Consent

I hereby consent to the performance of the above described (repairs or as the case may be.)

Dated,

.....
(Signature of registered or legal owner)

[I.C., § 49-3503, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 409, p. 549; am. 1998, ch. 392, § 23, p. 1197; am. 2002, ch. 32, § 21, p. 46.]

STATUTORY NOTES

Prior Laws. — Former § 49-1702, which comprised S. L. 1932, ch. 32, § 2, p. 61; I.C.A., § 48-1002, was repealed by S.L. 1979, ch. 70, § 3.

Compiler's Notes. — This section was formerly compiled as § 49-3503 and was amended and redesignated by § 409 of S.L. 1988, ch. 265 to become this section.

49-1703. Assignment of lien. — Any lien provided for in this chapter may be assigned by written instrument accompanied by delivery of possession of the vehicle subject to the lien, and the assignee may exercise the rights of a lien holder. Any lien holder assigning a lien, as authorized herein, shall at the time of assigning the lien give written notice of the assignment by certified mail to the registered and legal owner, including the name and address of the person to whom the lien is assigned. [I.C., § 49-3504, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 410, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1703, which comprised 1931, ch. 32, § 3, p. 61; I.C.A., § 48-1003, was repealed by S.L. 1988, ch. 265, § 407, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-3504 and was amended and redesignated by § 410 of S.L. 1988, ch. 265 to become this section.

49-1704. Revival of lost liens. — Whenever the lien upon any vehicle is lost by reason of the loss of possession through trick, fraud, or device, the repossession of the vehicle by the lien holder revives the lien, but any lien so revived is subordinate to any right, title or interest of any person under any sale, transfer, encumbrance, lien or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession. [I.C., § 49-3505, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 411, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3505 and was

amended and redesignated by § 411 of S.L. 1988, ch. 265 to become this section.

49-1705. Sale to satisfy liens. — (1) When a possessory lienholder is not paid the amount of the lien due, within ten (10) days after the same becomes due, the lienholder may proceed to conduct a sale as provided by this section to satisfy the lien and costs of sale, if an authorization to conduct a lien sale has been issued by the department, or a judgment has been entered in favor of the lienholder on the claim which gives rise to the lien, or the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle.

(2) A possessory lienholder may apply to the department for the issuance of an authorization to conduct a lien sale. The application shall include all of the following information:

- (a) A description of the vehicle, including make, vehicle identification number, and license number;
- (b) The names and addresses of the registered and legal owners of the vehicle, if ascertainable from registration certificates within the vehicle, and the names and addresses of other persons whom the lienholder knows or reasonably should know to claim an interest in the vehicle;
- (c) A statement of the amount of the lien and the facts concerning the claim which give rise to the lien; and
- (d) A statement that the lienholder has no information or belief that there is a valid defense to the claim which gives rise to the lien.

(3) Upon receipt of an application, the department shall send a copy of the application to the registered and legal owners at their addresses of record with the department and to any other interested persons listed in the application. The department shall also send a notice which shall include the following information:

- (a) That an application has been made with the department for the issuance of an authorization to conduct a lien sale;
- (b) That the person has a legal right to a hearing in court;
- (c) That if a hearing in court is desired, an enclosed declaration of opposition must be signed and returned;
- (d) That if the declaration is signed and returned, the possessory lienholder will be allowed to sell the vehicle only if he obtains a judgment in court or obtains a release from the registered and legal owners;
- (e) That the department will issue the authorization to conduct a lien sale unless the person signs and returns the declaration of opposition within ten (10) days after the date the notice was mailed; and
- (f) That the person may be liable for costs if the lienholder brings an action and if a judgment is entered in favor of the lienholder.

(4) If the department receives a timely mailed declaration of opposition, it shall notify the possessory lienholder that he may not conduct a lien sale unless:

- (a) A judgment has been entered in his favor on the claim which gives rise to the lien; or
- (b) The registered and legal owners of the vehicle have signed a release of any interest in the vehicle.

(5) An applicant shall include with his application for lien sale a fee of ten dollars (\$10.00) which shall be deposited in the abandoned vehicle trust account. The fee shall be recoverable as a cost by the lienholder. [I.C., § 49-3506, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 412, p. 549; am. 1998, ch. 392, § 24, p. 1197.]

STATUTORY NOTES

Cross References. — Abandoned vehicle trust account, § 49-1818.

Compiler's Notes. — This section was

formerly compiled as § 49-3506 and was amended and redesignated by § 412 of S.L. 1988, ch. 265 to become this section.

49-1706. Release of owner's interest in vehicle. — (1) A registered or legal owner of a vehicle in the possession of a person holding a lien under the provisions of this chapter may release any interest in the vehicle after the lien has attached.

(2) The release shall contain the following information:

(a) A description of the vehicle, including the year and make, the engine or vehicle identification number, and the license number;

(b) The names and addresses of the registered and legal owners of record;

(c) A statement of the amount of the lien and the facts concerning the claim which give rise to the lien; and

(d) A statement that the person releasing the interest understands that he has a legal right to a hearing in court prior to the sale of the vehicle and that he waives the right to contest the claim.

(3) A copy of the release shall be filed with the department in connection with the transfer of interest in a vehicle under the provisions of this section. [I.C., § 49-3507, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 413, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 413 of S.L. formerly compiled as § 49-3507 and was 1988, ch. 265 to become this section.

49-1707. Notice of sale. — Prior to any sale the possessory lienholder shall give at least ten (10) days' notice of the sale by advertising in one (1) issue of a newspaper of general circulation in the county in which the vehicle is located. Prior to the sale of any vehicle to satisfy a lien, twenty (20) days' notice by certified mail shall be given to the legal owner and to the registered owner of the vehicle, if registered in this state, as the same appear in the registration certificate, and to the department. All notices specify the make, the vehicle identification number, and license number, and the date, time, and place of the sale. [I.C., § 49-3508, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 414, p. 549; am. 1998, ch. 392, § 25, p. 1197.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 414 of S.L. formerly compiled as § 49-3508 and was 1988, ch. 265 to become this section.

49-1708. Inspection prior to sale. — No lien sale conducted pursuant to this chapter shall be undertaken unless the vehicle has been available for public inspection, at a location easily accessible to the public, for at least one (1) hour before sale. Sealed bids shall not be accepted. The possessory lien holder shall conduct the sale in a commercially reasonable manner. [I.C., § 49-3509, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 415, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 415 of S.L. formerly compiled as § 49-3509 and was 1988, ch. 265 to become this section.

49-1709. Disposition of proceeds. — (1) The proceeds of a lien sale shall be disbursed as follows:

(a) To discharge the lien; then to actual costs of selling the property. The cost of selling shall be the actual cost, not to exceed seventy-five dollars (\$75.00), for each vehicle;

(b) The balance, if any, shall be forwarded to the department within five (5) days of the sale for payment to the legal owner of any unpaid obligation or for deposit in the abandoned vehicle trust account.

(2) Any person claiming an interest in the vehicle may file a claim with the department for any portion of the funds from the lien sale which were forwarded to the department. Upon determination of the department that the claimant is entitled to some amount, the department shall pay an amount which in no case shall exceed the amount forwarded to the department in connection with the sale of the vehicle. The department shall not honor any claim not filed within two (2) years of the sale. [I.C., § 49-3510, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 416, p. 549.]

STATUTORY NOTES

Cross References. — Abandoned vehicle trust account, § 49-1818. formerly compiled as § 49-3510 and was amended and redesignated by § 416 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was 1988, ch. 265 to become this section.

49-1710. Unlawful removal or obtaining of vehicle subject to lien.

— No person shall obtain possession of any vehicle or any part of that vehicle, subject to a lien under the provisions of this chapter, through surreptitious removal or by trick, fraud, or device perpetrated upon the lien holder. [I.C., § 49-3511, as added by 1982, ch. 351, § 2, p. 868; am. and redesign. 1988, ch. 265, § 417, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3511 and was amended and redesignated by § 417 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

CHAPTER 18

ABANDONED MOTOR VEHICLES

SECTION.

49-1801. Abandonment prohibited.

49-1802. Presumption.

49-1803. Removal of stolen vehicles or vehi-

SECTION.

cles found under emergency circumstances.

49-1804. Removal of abandoned vehicles by

SECTION.

- authorized officer.
 49-1805. Post-storage hearing.
 49-1806. Removal of unauthorized and abandoned vehicle from real property.
 49-1807. Charges not otherwise provided for.
 49-1807A. Unauthorized removal of vehicle — Refusal to release vehicle.
 49-1808. Storage of vehicle.
 49-1809. Request by possessory lien holder for names and addresses of interested persons — Notice of sale to satisfy lien.
 49-1810. Notification to owner of sale.

SECTION.

- 49-1811. Sale of unclaimed vehicles.
 49-1812. Claiming of abandoned vehicles.
 49-1813. Removal without payment prohibited.
 49-1814. Disposition of low-valued vehicles.
 49-1815. Disposition of low-valued vehicles — Procedure.
 49-1816. Disposition of low-valued vehicle — Automobile parts dealer.
 49-1817. Fee to accompany information request.
 49-1818. Abandoned vehicle trust account — Appropriation and use.

49-1801. Abandonment prohibited. — (1) No person shall abandon a vehicle upon any highway.

(2) No person shall abandon a vehicle upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property. [I.C., § 49-3603, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 3, p. 351; am. and redesign. 1988, ch. 265, § 419, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1801, which comprised 1935 (2d E.S.), ch. 2, § 1, p. 6; am. 1951, ch. 65, § 1, p. 93; am. 1969, ch. 85, § 1, p. 258, was repealed by S.L. 1988, ch. 265, § 418, effective January 1, 1989.

Compiler's Notes. — This section was

formerly compiled as § 49-3603 and was amended and redesignated by § 419 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

RESEARCH REFERENCES

A.L.R. — Impounding, or destruction of motor vehicles parked or abandoned on streets or highways. 32 A.L.R.4th 728.

49-1802. Presumption. — (1) The abandonment of any vehicle shall create a prima facie presumption that the last registered owner of record is responsible for the abandonment and is thereby liable for the costs incurred in the removal, storage and disposition of the vehicle, less any amount received from the disposition of the vehicle.

(2) The owner of any vehicle removed under extraordinary circumstances is presumed responsible for the vehicle and is thereby liable for the costs incurred in the removal, storage and disposition of the vehicle, less any amounts received from the disposition of the vehicle.

(3) If a vehicle is found abandoned or under extraordinary circumstances and is removed at the direction of any authorized officer, and is not redeemed by the owner or lienholder within seven (7) days of the tow, the last registered owner of record is guilty of a traffic infraction, unless the owner has filed a release of liability with the department according to section 49-526, Idaho Code, in which case the transferee shown on the release of liability shall be guilty of a traffic infraction. [I.C., § 49-3604, as

added by 1982, ch. 267, § 1, p. 690; am. and redesign. 1988, ch. 265, § 420, p. 549; am. 2002, ch. 366, § 3, p. 1032.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3604 and was amended and redesignated by § 420 of S.L. 1988, ch. 265 to become this section. Former § 49-1802 was amended and redesignated as § 49-1101 by § 286 of S.L. 1988, ch. 265.

49-1803. Removal of stolen vehicles or vehicles found under emergency circumstances. — (1) Any authorized officer, upon discovery of a vehicle reported as stolen and not recovered, or any vehicle involved in any extraordinary circumstances, may take the vehicle into custody and cause it to be taken to and stored in a suitable place, or may cause the vehicle to be placed in the custody of a tow truck operator, all expenses of towing and storage to be those of the vehicle owner unless otherwise determined according to the provisions of section 49-1805(5), Idaho Code.

(2) Within forty-eight (48) hours of the time that the vehicle is taken into custody and is stored pursuant to this chapter, the agency of which the officer is an agent shall give written notice by certified mail to the registered and legal owners of the vehicle, if known. The notice shall state:

- (a) That the vehicle has been taken into custody and stored; and
- (b) The location of storage of the vehicle.

(3) The public agency by which the officer is employed shall appraise the vehicle and shall include in the notice, identification of the officer; location of the vehicle; a description of the vehicle including make, year model, identification number, license number, state of registration and the statutory authority for storage. [I.C., § 49-3606, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 4, p. 351; am. and redesign. 1988, ch. 265, § 421, p. 549; am. 1998, ch. 392, § 26, p. 1197.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3606 and was amended and redesignated by § 421 of S.L. 1988, ch. 265 to become this section. Former § 49-1803 was amended and redesignated as § 49-1102 by § 287 of S.L. 1988, ch. 265.

49-1804. Removal of abandoned vehicles by authorized officer. — Any authorized officer within the jurisdiction in which a vehicle is located, who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property to a garage or nearest place of safety.

Upon discovery of an abandoned vehicle which is not within the class of vehicles defined under "emergency circumstances," an authorized officer shall attach on the vehicle, in plain view, a notice that this vehicle will be towed away at the expiration of forty-eight (48) hours as an abandoned vehicle. The notice shall contain the name of the officer who prepared the notice; the name of the agency employing the officer; the time and date of attaching the notice; the time and date after which the vehicle will be

removed; the telephone number and address of the agency where further information can be obtained. A reasonable attempt shall be made to notify by telephone the owner of any vehicle which has current license plates and registration as shown on the records of the department, prior to the expiration of the forty-eight (48) hour notice period, of the location of the vehicle and the time and date of intent to remove the vehicle. The inability of an officer to notify the owner shall not preclude the removal of the vehicle at the expiration of the forty-eight (48) hour period.

Any vehicle which does not have current or any license plate attached may be immediately removed to a safe place of storage. [I.C., § 49-3608, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 5, p. 351; am. and redesign. 1988, ch. 265, § 422, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3608 and was amended and redesignated by § 422 of S.L. 1988, ch. 265 to become this section. Former § 49-1804 was amended and redesignated as § 49-1103 by § 288 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: State v. Wilkerson, 114 Idaho 174, 755 P.2d 471 (Ct. App. 1988).

49-1805. Post-storage hearing. — (1) Whenever an authorized officer directs the towing or storage of a vehicle, except vehicles impounded for investigation pursuant to section 49-1803, Idaho Code, the agency directing or authorizing towing or storage shall provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a post-storage hearing to determine the validity of the storage.

(2) A notice of the storage shall be sent by certified mail to the registered and legal owners within forty-eight (48) hours, excluding the weekends and holidays, and shall include the following information:

- (a) The name, address, and telephone number of the agency providing the notice;
- (b) The location of the place of storage and description of the vehicle which shall include, if available, the name or make, identification number, the license plate number, and the mileage;
- (c) The authority and purpose for the removal of the vehicle; and
- (d) In order to receive a post-storage hearing, the owners, or their agents, must request the hearing in writing within ten (10) days of the date of the notice. Any such hearing shall be conducted within forty-eight (48) hours of the request, excluding weekends and holidays. The public agency may authorize its own officer or employee to conduct the hearing, so long as the hearing officer is not the same person who directed the storage of the vehicle.

(3) Failure of either the registered or legal owner, or his agent, to request or to attend a scheduled hearing shall satisfy the post-storage hearing requirement as to that person.

(4) The provisions of this section shall not apply to vehicles removed from private property pursuant to section 49-1806(1), Idaho Code.

(5) The agency employing the person who directed the storage shall be responsible for the costs incurred for towing and storage if it is determined in the hearing that probable cause for the storage cannot be established. [I.C., § 49-3609, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 6, p. 351; am. and redesisg. 1988, ch. 265, § 423, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3609 and was amended and redesignated by § 423 of S.L. 1988, ch. 265 to become this section.

Former § 49-1805 was amended and redesignated as § 49-1104 by § 289 of S.L. 1988, ch. 265.

49-1806. Removal of unauthorized and abandoned vehicle from real property. — (1) Any person having possession or control of real property who finds an unauthorized vehicle standing upon his property is permitted to have the vehicle removed if there is posted on or near the property in a clearly conspicuous location, in large print, a sign or notice that unauthorized vehicles will be removed at the owner's expense and designating the name of the towing firm. Unauthorized vehicles need not meet the provision of section 49-102(2), Idaho Code, in this instance.

(2) Any person having possession or control of real property who finds an abandoned vehicle standing on his property, where the property is not posted as set out in subsection (1) of this section, may contact an authorized officer, who must in turn comply with the provisions of section 49-1804, Idaho Code, in accomplishing the removal of the vehicle except under those circumstances set out in subsection (3) of this section.

(3) Where access into or out of private property or substantial interference with the use and enjoyment of private property is created by an unauthorized or abandoned vehicle being parked or otherwise left on private property, the person owning or controlling the property may contact an authorized officer who may, without regard for the provisions of section 49-1804, Idaho Code, immediately proceed to have the vehicle removed to a garage or nearest place of safety. All other provisions of this chapter shall be complied with. [I.C., § 49-3610, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 7, p. 351; am. and redesisg. 1988, ch. 265, § 424, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1806, which comprised 1935 (2nd E.S.), ch. 2, § 6, p. 6; am. 1939, ch. 225, § 5, p. 498; am. 1950 (E.S.), ch. 82, § 1, p. 110; am. 1982, ch. 95, § 103, p. 185, was repealed by S.L. 1984, ch. 195, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-3610 and was amended and redesignated by § 424 of S.L. 1988, ch. 265 to become this section.

49-1807. Charges not otherwise provided for. — Every towing firm, employee or agent in the process of towing, removing or impounding a vehicle as directed by an authorized officer, except vehicles found under extraordinary circumstances or suspected stolen, shall upon request of the

owner or his authorized agent, release the vehicle at the scene. If the vehicle is attached to the tow truck, or otherwise "in tow," the regular, scheduled tow fee may be charged. When the vehicle is not yet "in tow" at the time of request, the release must be made, and no charge may be assessed except a customary and reasonable charge for mileage one way from the towing firm's place of storage to the scene plus the usual fee for the tow truck operator. If the authorized fee is not tendered by the owner or his agent, the towing operator may complete the impoundment, towing or removal, as authorized. [I.C., § 49-3612, as added by 1982, ch. 267, § 1, p. 690; redesign. and am. 1983, ch. 143, § 8, p. 351; am. and redesign. 1988, ch. 265, § 425, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3611 and was amended and redesignated by § 425 of S.L. 1988, ch. 265 to become this section. Former § 49-1807 was amended and redesignated as § 49-1105 by § 290 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

Cited in: State v. Wilkerson, 114 Idaho 174, 755 P.2d 471 (Ct. App. 1988).

49-1807A. Unauthorized removal of vehicle — Refusal to release vehicle. — Any towing firm, employee or agent thereof called to the scene of an accident or disabled vehicle by an authorized officer and requested to remove a vehicle, shall remove the vehicle and take it to the nearest garage or other place of safety as directed by the officer or, except as otherwise provided in this chapter, shall take the vehicle to such place as the owner or his authorized agent may reasonably request. The towing firm, employee or agent shall not be entitled to recover any storage, impound fees or other fees, except the scheduled tow fee, if the firm, employee or agent:

(1) Removes the vehicle to a place other than as directed by the officer or as reasonably requested by the owner or his authorized agent; or

(2) After removing the vehicle, refuses to release the vehicle to the owner or his authorized agent for any reason other than the refusal of the owner or authorized agent to pay the fees to which the towing firm is lawfully entitled. The refusal of the owner or his authorized agent to pay fees to which the towing firm, employee or agent is not entitled pursuant to this subsection, shall not be cause for the towing firm, employee or agent to refuse to release the vehicle. [I.C., § 49-1807A, as added by 2000, ch. 308, § 1, p. 1044.]

49-1808. Storage of vehicle. — Whenever an authorized officer removes a vehicle from a highway, or from public or private property, he shall take, or cause to be taken, the vehicle to the nearest garage or other place of safety. At the time of removal, the authorized officer or employee shall record the mileage of the vehicle. [I.C., § 49-3613, as added by 1982, ch. 267, § 1, p. 690; redesign. and am. 1983, ch. 143, § 9, p. 351; am. and redesign. 1988, ch. 265, § 426, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-1808, which comprised 1935 (2d E.S.), ch. 2, § 10, p. 6, was repealed by S.L. 1988, ch. 265, § 418, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-3612 and was amended and redesignated by § 426 of S.L. 1988, ch. 265 to become this section.

49-1809. Request by possessory lien holder for names and addresses of interested persons — Notice of sale to satisfy lien. —

(1) After acquiring possession of a vehicle in any manner authorized by the provisions of this chapter, the possessory lien holder shall make a request to the department for the names and addresses of all persons having an interest in the vehicle as appears in the department records. The possessory lien holder shall, upon receipt of this information, notify all legal or registered owners in accordance with section 49-1805, Idaho Code, unless otherwise already complied with. Whenever a vehicle has been removed under the provisions of this chapter and the possessory lien holder has sent the notice as provided, the possessory lien holder shall have a lien dependent upon possession for his compensation for towage and for caring for and keeping safe the vehicle for a period not exceeding sixty (60) days. If the vehicle is not recovered by the owner within that period or the owner is unknown, the keeper of the garage may satisfy his lien in the manner prescribed in this chapter. The lien shall not be assigned.

(2) No lien shall attach to any personal property in or on the vehicle. Personal property in or on the vehicle shall be given to the registered owner or owner's authorized agent upon demand. The lien holder shall not be responsible for property after any vehicle has been disposed of pursuant to this chapter. [I.C., § 49-3618, as added by 1982, ch. 267, § 1, p. 690; redesign. and am. 1983, ch. 143, § 10, p. 351; am. and redesign. 1988, ch. 265, § 427, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 427 of S.L. 1988, ch. 265 to become this section.

49-1810. Notification to owner of sale. — (1) If the owner or a lien holder of record is known and can be located, a copy of the notice of sale shall be served on the owner and lien holder at least fifteen (15) days before the date of the sale. Service of the notice may be made by certified mail. Notice of the sale, in addition, shall be given by advertising the abandoned vehicle for sale at least twice in a daily newspaper of general circulation where the abandoned vehicle was found and is being held. The notice of sale shall:

- (a) Describe the abandoned vehicle by giving a description of the vehicle, name or make, model, year, manufacturer, license plate number (if available), mileage, serial number and any other distinguishing characteristics;
- (b) Describe when and where the abandoned vehicle will be sold;
- (c) State the names and addresses of the registered and legal owners (if known);

(d) State the amount of the lien and the facts concerning the claim which gave rise to the lien.

(2) Where the owner or lien holder is not known or cannot be located, notice of sale shall be given by advertising the abandoned vehicle for sale at least twice in a daily newspaper of general circulation where the abandoned vehicle was found and is being held. The notice shall contain the information required in subsection (1) of this section. If the owner is known but has not been located a notice of sale shall, in addition, be sent to him by registered or certified mail to the last known mailing address. [I.C., § 49-3614, as added by 1983, ch. 143, § 11, p. 351; am. and redesign. 1988, ch. 265, § 428, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3614 and was amended and redesignated by § 428 of S.L. 1988, ch. 265 to become this section. The words enclosed in parentheses so appeared in the law as enacted.

49-1811. Sale of unclaimed vehicles. — (1) If the owner of an abandoned vehicle does not claim the vehicle before the day of sale or the owner or lien holder is unknown or cannot be located, the abandoned vehicle shall be sold, pursuant to the notice of sale. Upon sale, the governmental entity conducting the sale shall apply for and the department shall issue a new certificate of title for the abandoned vehicle. The new certificate of title shall be delivered to the new purchaser by the department. The application for the new certificate of title shall state that the abandoned vehicle has been sold as abandoned and ownerless to the purchaser. The new certificate of title may thereafter be used by the purchaser to show ownership of the sold abandoned vehicle.

(2) All sales of vehicles, pursuant to the provisions of this chapter, shall be under the direction of an appropriate governmental agency which shall prior to sale be satisfied that all prerequisites in this chapter have been satisfied. [I.C., § 49-3615, as added by 1983, ch. 143, § 12, p. 351; am. and redesign. 1988, ch. 265, § 429, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3615 and was amended and redesignated by § 429 of S.L. 1988, ch. 265 to become this section.

49-1812. Claiming of abandoned vehicles. — (1) The owner of an abandoned vehicle or any vehicle removed under extraordinary circumstances may take possession of the abandoned vehicle at any time prior to sale by proving ownership and paying the costs relative to towing and storing the vehicle and costs of advertising except as otherwise provided in section 49-1805, Idaho Code.

(2) A lienholder of an abandoned vehicle or any vehicle removed under extraordinary circumstances may take possession of the abandoned vehicle at any time prior to the sale by proving the presence of the lien and by paying the costs relative to towing and storing the vehicle and costs of

advertising. The lienholder may also take possession of the abandoned vehicle by purchasing the vehicle at the sale. Nothing in this chapter shall be construed to abate any cause of action that a lienholder has against the owner of an abandoned vehicle. [I.C., § 49-3616, as added by 1983, ch. 143, § 13, p. 351; am. and redesisg. 1988, ch. 265, § 430, p. 549; am. 2002, ch. 366, § 4, p. 1032.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 430 of S.L. formerly compiled as § 49-3616 and was 1988, ch. 265 to become this section.

49-1813. Removal without payment prohibited. — Unauthorized removal of an abandoned vehicle from the custody of the department, the sheriff, state police or police department, or from the custody of any person holding the abandoned vehicle for the department, the sheriff, state police or police department without payment in full of all charges and costs that have been incurred under the provisions of this chapter shall be a misdemeanor and the abandoned vehicle may be recovered and disposed of by the department, the sheriff, state police or police department. [I.C., § 49-3617, as added by 1983, ch. 143, § 14, p. 351; am. and redesisg. 1988, ch. 265, § 431, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 431 of S.L. formerly compiled as § 49-3617 and was 1988, ch. 265 to become this section.

49-1814. Disposition of low-valued vehicles. — (1) If the vehicle is appraised at a value not exceeding two hundred dollars (\$200), the provisions of sections 49-1809 through 49-1811, Idaho Code, shall not apply, and the person or public agency which removed the vehicle shall:

(a) Prepare a certificate containing a description of the vehicle stating the appraised value of the vehicle and indicating one of the following:

1. The agency which requested the tow has submitted a certified statement that a declaration of opposition has not been received.

2. The registered and legal owners have signed a certified release disclaiming any interest, which release shall be included with the certificate.

3. The vehicle is in a condition that vehicle identification numbers are not available to determine owners of record.

(b) Upon completion of the certificate, execute and deliver a bill of sale, together with a copy of the certificate, either to the possessory lienholder, who shall endorse the bill of sale to an automobile parts dealer or to a scrap processor for disposal.

(2) Automobile parts dealers acquiring vehicles which are the subject of certificates prepared and forwarded pursuant to this section shall be excused from any fees which would otherwise be due to the department.

(3) A public agency may authorize, by contract, the removal or disposal of low-valued vehicles. The contract shall be issued to the lowest responsible

bidder. Bills of sale shall then be executed and delivered, pursuant to subsection (1)(b) of this section, to the contractor.

(4) The following persons shall have the authority to make appraisals for purposes of this chapter:

- (a) Any member of the Idaho state police;
- (b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county;
- (c) Any regularly employed and salaried peace officer or other employee designated by the chief of police of any city;
- (d) Any officer or employee of the division of motor vehicles designated by the director;
- (e) Any regularly salaried employee of a city, county, or city and county designated by a board of county commissioners or by a city council; or
- (f) Any regularly employed and salaried peace officer or other employee of the department of parks and recreation designated by the director of that department.

(5) An appraiser, upon completion of an appraisal within the meaning of this chapter, shall notify the department of the appraisal and of the facts upon which the appraisal was based. [I.C., § 49-3619, as added by 1982, ch. 267, § 1, p. 690; redesign. and am. 1983, ch. 143, § 15, p. 351; am. and redesign. 1988, ch. 265, § 432, p. 549; am. 1989, ch. 113, § 2, p. 255; am. 1995, ch. 116, § 28, p. 386; am. 1998, ch. 392, § 27, p. 11971; am. 2000, ch. 469, § 120, p. 1450.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3618 and was amended and redesignated by § 432 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 30 of S.L. 1995, ch. 166 declared an emergency. Approved March 14, 1995.

49-1815. Disposition of low-valued vehicles — Procedure. — The procedure for the disposition of low-valued vehicles is as follows:

(1) The person or agency which removes the vehicle shall, within fifteen (15) working days following the date of possession of the vehicle, make a request to the department for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the fifteen (15) day period unless the lienholder has made a request to the department as provided in this section.

(2) The person or agency which removes the vehicle shall immediately upon receipt of this information send, by certified mail with return receipt requested, the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the department, and to any other person known to have an interest in the vehicle:

- (a) A completed form entitled "Notice of Intent to Dispose of a Vehicle Valued at \$200 or Less";
- (b) A blank form entitled "Declaration of Opposition".

(3) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following:

- (a) A description of the vehicle, including make, year model, identification number, license number, and state of registration;
- (b) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle;
- (c) The following statements and information:

- 1. The amount of the lien;
- 2. The facts concerning the claim which give rise to the lien;
- 3. The person has a right to a hearing in court;
- 4. If a hearing in court is desired, a declaration of opposition form shall be signed under penalty of perjury and returned to the agency which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle valued at \$200 or less form was mailed; and
- 5. The declarant may be liable for court costs if a judgment is entered in favor of the possessory lienholder.

(d) A statement that the possessory lienholder may dispose of the vehicle to a certified automobile parts dealer if it is not redeemed or if a declaration of opposition form is not signed and mailed to the agency which requested the tow within ten (10) days of the date the notice of intent to dispose of a vehicle valued at \$200 or less form was mailed.

(4) If the agency which requested the tow receives a completed declaration of opposition form within the time prescribed, the vehicle shall not be disposed of for an additional fifteen (15) day period during which time the individual filing the declaration of opposition must file an action with the appropriate court and cause the possessory lienholder to be served with the summons and complaint. The filing and service of the action will stay disposal of the vehicle pending decision by the court unless the declarant subsequently releases his interest in the vehicle. [I.C., § 49-3619, as added by 1983, ch. 143, § 16, p. 351; am. and redesign. 1988, ch. 265, § 433, p. 549; am. 1989, ch. 113, § 3, p. 255; am. 1998, ch. 392, § 28, p. 1197.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 433 of S.L. formerly compiled as § 49-3619 and was 1988, ch. 265 to become this section.

JUDICIAL DECISIONS

Cited in: *State v. Wilkerson*, 114 Idaho 174, 755 P.2d 471 (Ct. App. 1988).

49-1816. Disposition of low-valued vehicle — Automobile parts dealer. — (1) Any vehicle determined to have a value not exceeding two hundred dollars (\$200) which was stored pursuant to this chapter, and which remains unclaimed, or for which reasonable towing and storage charges remain unpaid, shall be disposed of only to an automobile parts dealer not earlier than fifteen (15) days after the date the notice of intent to dispose of a vehicle valued at two hundred dollars (\$200) or less form was mailed, unless a declaration of opposition form has been signed and returned to the possessory lien holder.

(2) If the vehicle has been disposed of to an automobile parts dealer, the person or agency removing the vehicle shall forward the following forms and information to the department within five (5) days:

- (a) A statement, signed under penalty of perjury, that a properly executed declaration of opposition form was not received;
- (b) A copy of the notice sent to all interested parties;
- (c) A certification from the public agency which made the determination of value pursuant to section 49-1814, Idaho Code;
- (d) The proof of service or a copy of the court judgment;
- (e) The name, address, and telephone number of the certified automobile parts dealer who received the vehicle; and
- (f) The amount the person or agency removing the vehicle received for the vehicle. [I.C., § 49-3620, as added by 1983, ch. 143, § 17, p. 351; am. and redesign. 1988, ch. 265, § 434, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 434 of S.L. formerly compiled as § 49-3620 and was 1988, ch. 265 to become this section.

49-1817. Fee to accompany information request. — Upon the filing of a request for title and registration information on an abandoned vehicle, the department shall receive a fee in accordance with section 49-202(2)(g), Idaho Code. [I.C., § 49-3621, as added by 1982, ch. 267, § 1, p. 960; am. 1983, ch. 143, § 18, p. 351; am. and redesign. 1988, ch. 265, § 435, p. 549; am. 1998, ch. 392, § 29, p. 1197; am. 2000, ch. 320, § 5, p. 1078.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3621 and was amended and redesignated by § 435 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 6 of S.L. 2000, ch. 320, provided that the act shall be in full force and effect on and after January 1, 2001.

49-1818. Abandoned vehicle trust account — Appropriation and use. — (1) An account is established, to be known and designated as the abandoned vehicle trust account. There shall be set aside, paid into and credited to the account, moneys remaining from any sale of an abandoned vehicle or any vehicle removed under extraordinary circumstances after satisfaction of all possessory liens and costs of conducting the sale, and the fee authorized under section 31-3201F, Idaho Code, collected by the district courts.

(2) Excess proceeds from abandoned vehicle sales deposited in the abandoned vehicle trust account are hereby continuously appropriated to the department for the purposes of satisfying allowable claims and reimbursing the costs of administering the provisions of this chapter.

(3) Any person claiming an interest in the vehicle may file a claim with the department for any portion of the excess proceeds from an abandoned vehicle sale which were forwarded to the department. Upon determination of the department that the claimant is entitled to some amount, the

department shall pay an amount which in no case shall exceed the amount forwarded to the department in connection with the sale of the vehicle. The department shall not honor any claim filed more than two (2) years after the sale.

(4) Each fee collected by the district courts pursuant to section 31-3201F, Idaho Code, shall be distributed as follows to the:

- (a) Law enforcement agency that directed the tow of the vehicle involved in the infraction \$50.00
- (b) Tow company that towed the vehicle involved in the infraction \$50.00
- (c) Department \$50.00

Fees shall be distributed to law enforcement agencies and tow companies on a monthly basis. All fees distributed to the department shall be deposited in the state highway account. [I.C., § 49-3602, as added by 1982, ch. 267, § 1, p. 690; am. and redesign. 1988, ch. 265, § 436, p. 549; am. 2002, ch. 366, § 5, p. 1032.]

STATUTORY NOTES

- Cross References.** — State highway account, § 40-702.

Compiler's Notes. — This section was formerly compiled as § 49-3602 and was amended and redesignated by § 436 of S.L.
- 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

CHAPTER 19

MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

SECTION.	SECTION.
49-1901. Enactment of multistate agreement.	49-1904. Filing of reports.
49-1902. Existing statutes not repealed.	49-1905 — 49-1912. [Amended and Redesignated.]
49-1903. State government departments authorized to cooperate with cooperating committee.	49-1913, 49-1914. [Repealed.]

49-1901. Enactment of multistate agreement. — The Multistate Highway Transportation Agreement is hereby enacted into law and entered into with all other jurisdictions legally joining therein as follows:

MULTISTATE HIGHWAY TRANSPORTATION AGREEMENT

Pursuant to and in conformity with the laws of their respective jurisdictions, the participating jurisdictions, acting by and through their officials lawfully authorized to execute this agreement, do mutually agree as follows:

ARTICLE I

Findings and Purposes

SECTION 1. Findings. The participating jurisdictions find that:

- (a) The expanding regional economy depends on expanding transportation capacity;

(b) Highway transportation is the major mode for movement of people and goods in the western states;

(c) Uniform application in the west of more adequate vehicle size and weight standards will result in a reduction of pollution, congestion, fuel consumption and related transportation costs, which are necessary to permit increased productivity;

(d) A number of western states have already, to the fullest extent possible, adopted substantially the 1964 Bureau of Public Roads recommended vehicle size and weight standards; and

(e) The participating jurisdictions are most capable of developing vehicle size and weight standards most appropriate for the regional economy and transportation requirements, consistent with and in recognition of principles of highway safety.

SECTION 2. Purposes. The purposes of this agreement are to:

(a) Adhere to the principle that each participating jurisdiction should have the freedom to develop vehicle size and weight standards that it determines to be most appropriate to its economy and highway system.

(b) Establish a system authorizing the operation of vehicles traveling between two (2) or more participating jurisdictions at more adequate size and weight standards.

(c) Promote uniformity among participating jurisdictions in vehicle size and weight standards on the basis of the objectives set forth in this agreement.

(d) Secure uniformity insofar as possible, of administrative procedures in the enforcement of recommended vehicle size and weight standards.

(e) Provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in section 1 of this article.

(f) Facilitate communication between legislators, state transportation administrators and commercial industry representatives in addressing the emerging highway transportation issues in participating jurisdictions.

ARTICLE II

Definitions

SECTION 1. As used in this agreement:

(a) "Cooperating committee" means a body composed of the designated representatives from the participating jurisdictions.

(b) "Designated representative" means a legislator or other person authorized under article X to represent the jurisdiction.

(c) "Jurisdiction" means a state of the United States or the District of Columbia.

(d) "Vehicle" means any vehicle as defined by statute to be subject to size and weight standards which operates in two (2) or more participating jurisdictions.

ARTICLE III

General Provisions

SECTION 1. Qualifications for Membership. Participation in this agreement is open to jurisdictions which subscribe to the findings, purposes and objectives of this agreement and will seek legislation necessary to accomplish these objectives.

SECTION 2. Cooperation. The participating jurisdictions, working through their designated representatives, shall cooperate and assist each other in achieving the desired goals of this agreement pursuant to appropriate statutory authority.

SECTION 3. Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or section hereof.

SECTION 4. Vehicle Laws and Regulations. This agreement shall not authorize the operation of a vehicle in any participating jurisdiction contrary to the laws or regulations thereof.

SECTION 5. Interpretation. The final decision regarding interpretation of questions at issue relating to this agreement shall be reached by unanimous joint action of the participating jurisdictions, acting through the designated representatives. Results of all such actions shall be placed in writing.

SECTION 6. Amendment. This agreement may be amended by unanimous joint action of the participating jurisdictions, acting through the officials thereof authorized to enter into this agreement, subject to the requirements of section 4, article III. Any amendment shall be placed in writing and become a part hereof.

SECTION 7. Restrictions, Conditions or Limitations. Any jurisdiction entering this agreement shall provide each other participating jurisdiction with a list of any restriction, condition or limitation on the general terms of this agreement, if any.

SECTION 8. Additional Jurisdictions. Additional jurisdictions may become members of this agreement by signing and accepting the terms of the agreement.

ARTICLE IV

Cooperating Committee

SECTION 1. Each participating jurisdiction shall have two (2) designated representatives. Pursuant to section 2, article III, the designated representatives of the participating jurisdictions shall constitute the cooperating committee which shall have the power to:

(a) Collect, correlate, analyze and evaluate information resulting or derivable from research and testing activities in relation to vehicle size and weight related matters.

(b) Recommend and encourage the undertaking of research and testing in any aspect of vehicle size and weight or related matter when, in their

collective judgment, appropriate or sufficient research or testing has not been undertaken.

(c) Recommend changes in law or policy with emphasis on compatibility of laws and uniformity of administrative rules or regulations which would promote effective governmental action or coordination in the field of vehicle size and weight related matters.

(d) Recommend improvements in highway operations, in vehicular safety, and in state administration of highway transportation laws.

(e) Perform functions necessary to facilitate the purposes of this agreement.

SECTION 2. Each designated representative of a participating jurisdiction shall be entitled to one (1) vote only. No action of the committee shall be approved unless a majority of the total number of votes cast by the designated representatives of participating jurisdictions are in favor thereof.

SECTION 3. The committee shall meet at least once annually and shall elect, from among its members, a chairman, a vice chairman and a secretary.

SECTION 4. The committee shall submit annually to the legislature of each participating jurisdiction a report setting forth the work of the committee during the preceding year and including recommendations developed by the committee. The committee may submit such additional reports as it deems appropriate or desirable.

ARTICLE V

Objectives of the Participating Jurisdictions

SECTION 1. Objectives. The participating jurisdictions hereby declare that:

(a) It is the objective of the participating jurisdictions to obtain more efficient and more economical transportation by motor vehicles between and among the participating jurisdictions by encouraging the adoption of standards that will, as minimums, allow the operation of a vehicle or combination of vehicles in regular operation on all state highways, except those determined through engineering evaluation to be inadequate, with a single-axle weight not in excess of 20,000 pounds, a tandem-axle weight not in excess of 34,000 pounds, and a gross vehicle or combination weight not in excess of that resulting from application of the formula:

$$W = 500 ((LN/N-1) + 12N + 36)$$

where W = maximum weight in pounds carried on any group of two or more axles computed to nearest 500 pounds.

L = distance in feet between the extremes of any group of two or more consecutive axles.

N = number of axles in group under consideration.

(b) It is the further objective of the participating jurisdictions that the operation of a vehicle or combination of vehicles in interstate commerce according to the provisions of subsection (a) of this section be authorized

under special permit authority by each participating jurisdiction for vehicle combinations in excess of statutory weight of 80,000 pounds and/or statutory lengths.

(c) It is the further objective of the participating jurisdictions to facilitate and expedite the operation of any vehicle or combination of vehicles between and among the participating jurisdictions under the provisions of subsection (a) or (b) of this section, and to that end the participating jurisdictions hereby agree, through their designated representatives, to meet and cooperate in the consideration of vehicle size and weight related matters including, but not limited to, the development of: uniform enforcement procedures; additional vehicle size and weight standards; operational standards; agreements or compacts to facilitate regional application and administration of vehicle size and weight standards; uniform permit procedures; uniform application forms; rules and regulations for the operation of vehicles, including equipment requirements, driver qualifications, and operating practices; and such other matters as may be pertinent.

(d) The cooperating committee may recommend that the participating jurisdictions jointly secure congressional approval of this agreement and, specifically of the vehicle size and weight standards set forth in subsection (a) of this section.

(e) It is the further objective of the participating jurisdictions to:

- (1) Establish transportation laws and regulations to meet regional needs and to promote an efficient, safe and compatible transportation network;
- (2) Develop standards that facilitate the most efficient and environmentally sound operation of vehicles on highways, consistent with and in recognition of principles of highway safety;
- (3) Establish programs to increase productivity and reduce congestion, fuel consumption and related transportation costs and enhance air quality through the uniform application of state vehicle regulations and laws.

ARTICLE VI

Entry Into Force and Withdrawal

SECTION 1. This agreement shall enter into force when enacted into law by any two (2) or more jurisdictions. Thereafter, this agreement shall become effective as to any other jurisdiction upon its enactment thereof, except as otherwise provided in section 8 [7], article III.

SECTION 2. Any participating jurisdiction may withdraw from this agreement by cancelling the same but no such withdrawal shall take effect until thirty (30) days after the designated representative of the withdrawing jurisdiction has given notice in writing of the withdrawal to all other participating jurisdictions.

ARTICLE VII

Construction and Severability

SECTION 1. This agreement shall be liberally construed so as to effectuate the purposes thereof.

SECTION 2. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any participating jurisdiction or the applicability thereto to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement shall not be affected thereby. If this agreement shall be held contrary to the constitution of any jurisdiction participating herein, the agreement shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdictions affected as to all severable matters.

ARTICLE VIII

Filing of Documents

SECTION 1. A copy of this agreement, its amendments, and rules or regulations promulgated thereunder and interpretations thereof shall be filed in the highway department in each participating jurisdiction and shall be made available for review by interested parties.

ARTICLE IX

Funding

SECTION 1. Funds for the administration of this agreement, including participation in the cooperating committee and the actual expenses of the designated representatives, shall be budgeted or expensed as determined appropriate.

ARTICLE X

Selection of Designated Representatives

SECTION 1. The process for selecting the designated representatives to the cooperating committee shall be established by law under this section.

SECTION 2. The persons authorized to represent the state of Idaho as the designated representatives to the committee shall be the chairman of the senate transportation committee and the chairman of the house transportation and defense committee, or a legislator or a state agency official that the chairman may assign.

SECTION 3. The transportation chairman in each house shall also designate one (1) alternate designated representative who shall also be a legislator or state agency official to serve in his absence. [I.C., § 49-2801, as added by 1975, ch. 51, § 1, p. 99; am. and redesign. 1988, ch. 265, § 438, p. 549; am. 2005, ch. 64, § 1, p. 223.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-2901] 49-2801 and was amended and redesignated by § 438 of S.L. 1988, ch. 265 to become this section.

Former § 49-1901 was amended and redesignated as § 49-2401 by § 467 of S.L. 1988, ch. 265.

The following states are members of the

statutory alliance: Idaho, Montana, Oregon, Wyoming, Nevada, Utah, Colorado, Arizona, and New Mexico.

The bracketed reference at the end of section 1 of article VI was added by the publisher

to correct an error in the enacting legislation.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-1902. Existing statutes not repealed. — All existing statutes prescribing weight and size standards and all existing statutes relating to special permits shall continue to be of force and effect until amended or repealed by law. [I.C., § 49-2802, as added by 1975, ch. 51, § 1, p. 99; am. and redesisg. 1988, ch. 265, § 439, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-2902] 49-2802 and was amended and redesignated by § 439 of S.L. 1988, ch. 265 to become this section.

Former § 49-1902 was amended and redesignated as § 49-2402 by § 468 of S.L. 1988, ch. 265.

49-1903. State government departments authorized to cooperate with cooperating committee. — Within appropriations available therefor, the departments, agencies and officers of the government of this state may cooperate with and assist the cooperating committee within the scope contemplated by article IV, section 1(a) and (b) of the agreement. The departments, agencies and officers of the government of this state are authorized generally to cooperate with that cooperating committee. [I.C., § 49-2803, as added by 1975, ch. 51, § 1, p. 99; am. and redesisg. 1988, ch. 265, § 440, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-2903] 49-2803 and was amended and redesignated by § 440 of S.L. 1988, ch. 265 to become this section.

Former § 49-1903 was amended and redesignated as § 49-2403 by § 469 of S.L. 1988, ch. 265.

49-1904. Filing of reports. — Filing of reports as required by article IV, section 4, of the agreement shall be with the department. Any and all notices required by the cooperating committee by-laws shall be given to the designated representative of this state or his alternate, if any. [I.C., § 49-2804, as added by 1975, ch. 51, § 1, p. 99; am. and redesisg. 1988, ch. 265, § 441, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-2904] 49-2804 and was amended and redesignated by § 441 of S.L. 1988, ch. 265 to become this section.

Former § 49-1904 was amended and redesisg.

as § 49-2404 by § 470 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-1905 — 49-1912. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-1905 — 49-1912 were amended and redesignated as §§ 49-2405 — 49-2412 by §§ 471 — 478 of S.L. 1988, ch. 265.

49-1913, 49-1914. Definitions — Constitutionality — Separability. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — These sections, 136 were repealed by S.L. 1988, ch. 265, which comprised 1937, ch. 96, §§ 13, 14, p. § 437, effective January 1, 1989.

CHAPTER 20**DRIVER LICENSE COMPACT****SECTION.**

49-2001. Enactment of compact.
49-2002. Expenses of compact administrator.
49-2003. Judicial review of compact enforcement.

SECTION.

49-2004 — 49-2009. [Repealed.]

49-2001. Enactment of compact. — The driver license compact is hereby enacted into law and entered into with all other jurisdictions legally joined therein in the form substantially as follows:

DRIVER LICENSE COMPACT**ARTICLE I****Findings and Declaration of Policy**

(a) The party states find that:

(1) The safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles.

(2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property.

(3) The continuance in force of a driver's license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the party states to:

(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.

(2) Make the reciprocal recognition of drivers' licenses to drive and eligibility therefor more just and equitable by considering the overall

compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any driver's license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.

ARTICLE II

Definitions

As used in this compact:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(b) "Home State" means the state which has issued and has the power to suspend, disqualify or revoke the use of the license or permit to operate a motor vehicle.

(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.

ARTICLE III

Reports of Conviction

The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.

ARTICLE IV

Effect of Conviction

(a) The licensing authority in the home state, for the purposes of suspension, disqualification, revocation or limitation of the driver's license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:

(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;

- (3) Any felony in the commission of which a motor vehicle is used;
- (4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature, and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.

ARTICLE V

Applications for New Driver's Licenses

Upon application for a driver's license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held driving privileges, or is the holder of a driver's license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a driver's license to drive to the applicant if:

(1) The applicant has held such a driver's license, but the same or driving privileges have been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.

(2) The applicant has held such a driver's license, but the same or driving privileges have been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated.

(3) The applicant is the holder of a driver's license to drive issued by another party state and currently in force unless the applicant surrenders such driver's license.

ARTICLE VI

Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to driver's licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state.

ARTICLE VII

Compact Administrator and Interchange of Information

(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting

jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

ARTICLE VIII

Entry Into Force and Withdrawal

(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six (6) months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of convictions occurring prior to the withdrawal.

ARTICLE IX

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1963, ch. 60, § 1, p. 236; am. and redesisg. 1988, ch. 265, § 442, p. 549; am. 1989, ch. 88, § 56, p. 151; am. 1990, ch. 45, § 37, p. 71.]

STATUTORY NOTES

Prior Laws. — Former § 49-2001, which comprised 1963, ch. 59, § 1, p. 226, was repealed by S.L. 1981, ch. 250, § 1.

Compiler's Notes. — This section was formerly compiled as § 49-2101 and was amended and redesignated by § 442 of S.L. 1988, ch. 265 to become this section.

Of the 50 states, all but Georgia, Massachusetts, Michigan, Tennessee, and Wisconsin were members of the Driver License Compact as of April 1, 2008.

Effective Dates. — Section 586 of S.L.

1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 70 of S.L. 1989, ch. 88, as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director

of the Idaho transportation department, and until that time, existing laws shall remain in effect."

JUDICIAL DECISIONS

Renewal Properly Denied.

Idaho department of transportation did not err in refusing to renew a driver's license, after discovering the motorist's Florida driving privileges had been previously revoked for

convictions of driving under the influence of alcohol, under the terms of the Interstate Driver License Compact. *Marshall v. Idaho DOT*, 137 Idaho 337, 48 P.3d 666 (Ct. App. 2002).

49-2002. Expenses of compact administrator. — The compact administrator provided for in Article VII of the compact shall not be entitled to any additional compensation on account of his service as the administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment. [1963, ch. 60, § 3, p. 236; am. and redesisg. 1988, ch. 265, § 443, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-2002, which comprised 1963, ch. 59, § 2, p. 226, was repealed by S.L. 1981, ch. 250, § 1.

formerly compiled as § 49-2103 and was amended and redesignated by § 443 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was

49-2003. Judicial review of compact enforcement. — Any act or omission of any official or employee of this state done or omitted pursuant to, or in enforcing, the provisions of the driver license compact shall be subject to review by the district court of Ada County or of any other county in which the person aggrieved shall reside, upon a petition therefor filed within thirty (30) days thereafter, but any review of the validity of any conviction reported pursuant to the compact shall be limited to establishing the identity of the person so convicted. [1963, ch. 60, § 5, p. 236; am. and redesisg. 1988, ch. 265, § 444, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-2003, which comprised 1963, ch. 59, § 3, p. 226, was repealed by S.L. 1981, ch. 250, § 1.

amended and redesignated by § 444 of S.L. 1988, ch. 265 to become this section.

Compiler's Notes. — This section was formerly compiled as § 49-2105 and was

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-2004 — 49-2009. Vehicle equipment safety compact. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1963, ch. 59, §§ 4-9, p. 226;

am. 1974, ch. 27, § 168, p. 811, were repealed by S.L. 1981, ch. 250, § 1.

CHAPTER 21

COMMERCIAL DRIVER SCHOOLS

SECTION.
49-2101. Duties of the state board of education — Rules.
49-2102. Schools — License required — Contents of application for license.
49-2103. Instructors — License required — Contents of application for license — Public school contracts.

SECTION.
49-2104. Expiration and renewal of licenses — Fees.
49-2105. Refusal, suspension or revocation of licenses.
49-2106. Exclusions — Free instruction — Colleges, universities and high schools.

49-2101. Duties of the state board of education — Rules. —
(1) The state board of education shall adopt and prescribe rules concerning the administration and enforcement of this chapter as are necessary to provide students with driver education while students are enrolled in a commercial driver training program.
(2) The state board of education shall administer and enforce the provisions of this chapter. [1965, ch. 145, § 2, p. 283; am. 1967, ch. 178, § 1, p. 590; am. and redesign. 1988, ch. 265, § 446, p. 549; am. 2004, ch. 223, § 2, p. 664.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2202 and was amended and redesignated by § 446 of S.L. 1988, ch. 265 to become this section.
Former § 49-2101 was amended and redesignated as § 49-2001 by § 442 of S.L. 1988, ch. 265.
Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-2102. Schools — License required — Contents of application for license. — No commercial driver training school shall be established nor shall any existing school continue to operate, unless the school applies for and obtains from the state board of education a license in the manner and form prescribed by the state board of education.
The application for license shall include a statement of the location of the school, a certificate of occupancy, a certificate of automobile insurance, a list of certified instructors, proof of an annual vehicle check, and a course of instruction for teen drivers aged fourteen and one-half (14 1/2) to seventeen (17) years which shall include the following standards:
(1) Not less than thirty (30) hours of classroom instruction;
(2) Not less than six (6) hours of behind-the-wheel practice driving; and
(3) Not less than six (6) hours of observation. [1965, ch. 145, § 3, p. 283; am. 1967, ch. 178, § 2, p. 590; am. and redesign. 1988, ch. 265, § 447, p. 549; am. 2004, ch. 223, § 3, p. 664.]

STATUTORY NOTES

Prior Laws. — Former § 49-2102, which comprised 1963, ch. 60, § 2, p. 236; am. 1982, ch. 95, § 105, p. 185, was repealed by S.L. 1988, ch. 265, § 445, effective January 1, 1989.
Compiler's Notes. — This section was

formerly compiled as § 49-2203 and was amended and redesignated by § 447 of S.L. 1988, ch. 265 to become this section.

49-2103. Instructors — License required — Contents of application for license — Public school contracts. — No person shall act as an instructor, unless the person applies for and obtains from the state board of education a license in the manner and form prescribed by the state board of education.

The rules shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the course of instruction, motor vehicle laws and safety principles, and a criminal background check. The state board of education shall not require the possession of a valid Idaho teaching certificate as a condition for the issuance of an instructor's license.

Any commercial driver training school that contracts with a public school to provide a driver training class at or for a public school may be allowed to use the services of any or all of the certified instructors of that commercial driving school. Once a person has been certified as an instructor, that person is authorized to teach in any approved private driver training program. [1965, ch. 145, § 4, p. 283; am. 1967, ch. 178, § 3, p. 590; am. 1987, ch. 334, § 1, p. 707; am. and redesign. 1988, ch. 265, § 448, p. 549; am. 1994, ch. 347, § 5, p. 1098; am. 2004, ch. 223, § 4, p. 664.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2204 and was amended and redesignated by § 448 of S.L. 1988, ch. 265 to become this section. Former § 49-2103 was amended and redesignated as § 49-2002 by § 443 of S.L. 1988, ch. 265.

49-2104. Expiration and renewal of licenses — Fees. — All licenses shall expire on the last day of the calendar year and may be renewed upon application to the state department of education as prescribed by regulations of the state board of education. Each application for an original or renewal school license shall be accompanied by a fee of fifty dollars (\$50.00), and each application for an original or renewal instructor's license shall be accompanied by a fee of ten dollars (\$10.00). Fees shall be payable to the treasurer of the state and credited to the driver training account. No license fees shall be refunded in the event any license is rejected, suspended, or revoked. [1965, ch. 145, § 5, p. 283; am. 1967, ch. 178, § 4, p. 590; am. and redesign. 1988, ch. 265, § 449, p. 549; am. 1993, ch. 180, § 1, p. 461.]

STATUTORY NOTES

Cross References. — Driver training account, § 19-308.

Prior Laws. — Former § 49-2104, which comprised 1963, ch. 60, § 4, p. 236, was repealed by S.L. 1988, ch. 265, § 445, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-2205 and was amended and redesignated by § 449 of S.L. 1988, ch. 265 to become this section.

49-2105. Refusal, suspension or revocation of licenses. — The state board of education may refuse to issue, or may suspend or revoke a license in any case where the board finds the applicant or licensee has violated any of the provisions of this chapter or the regulations adopted by the state board of education. A suspended or revoked license shall be returned to the state board of education by the licensee. [1965, ch. 145, § 6, p. 283; am. 1967, ch. 178, § 5, p. 590; am. and redesisg. 1988, ch. 265, § 450, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2206 and was amended and redesignated by § 450 of S.L. 1988, ch. 265 to become this section. Former § 49-2105 was amended and redesignated as § 49-2003 by § 444 of S.L. 1988, ch. 265.

49-2106. Exclusions — Free instruction — Colleges, universities and high schools. — The provisions of this chapter do not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge for their employees only, nor to schools or classes conducted by colleges, universities and high schools for enrolled students as a part of a normal program for those institutions. [1965, ch. 145, § 7, p. 283; am. and redesisg. 1988, ch. 265, § 451, p. 549; am. 1994, ch. 163, § 1, p. 371.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2207 and was amended and redesignated by § 451 of S.L. 1988, ch. 265 to become this section. **Effective Dates.** — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

CHAPTER 22

HAZARDOUS MATERIALS/HAZARDOUS WASTE
TRANSPORTATION ENFORCEMENT

SECTION.	SECTION.
49-2201. Legislative findings and purposes.	49-2206. Enforcement.
49-2202. Permit requirements for transporters of hazardous wastes.	49-2207. Civil enforcement action.
49-2203. Endorsement requirements for transporters of hazardous materials.	49-2208. Subpoena authority.
49-2204. Notice of federal insurance requirements.	49-2209. Civil remedies.
49-2205. Hazardous material/hazardous waste transportation enforcement fund.	49-2210. Immunities.
	49-2211. Criminal enforcement and penalties.
	49-2212. Change of federal rules and regulations.

49-2201. Legislative findings and purposes. — (1) The legislature of the state of Idaho finds:

- (a) That the amount and number of vehicles involved in the transportation of hazardous materials/hazardous waste on the highways of this state are on the increase;
 - (b) That the public health and safety and the environment are jeopardized when hazardous materials/hazardous waste are transported in unsafe vehicles or in an unsafe manner;
 - (c) That since the state police are most likely to be in the position to enforce safety laws and also to be first responders in the event of hazardous materials/hazardous waste incidents; and
 - (d) That the problem of safe transportation of hazardous materials/hazardous waste has become a matter of statewide concern.
- (2) Therefore, it is hereby declared that the purposes of this chapter are:
- (a) To protect the health and safety of the public and the environment by reducing the risk of accidents through an adequately funded safety inspection program aimed at vehicles which transport hazardous materials/hazardous waste;
 - (b) To provide for specialized training and equipment for state police officers to enable them to respond to hazardous materials/hazardous waste incidents on an emergency basis;
 - (c) To assure the safe transportation of hazardous materials/hazardous waste within this state. [I.C., § 49-2502, as added by 1986, ch. 231, § 4, p. 627; am. and redesign. 1988, ch. 265, § 453, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-2201, which comprised 1965, ch. 145, § 1, p. 283, was repealed by S.L. 1988, ch. 265, § 452, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-2502 and was

amended and redesignated by § 453 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

49-2202. Permit requirements for transporters of hazardous wastes. — (1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous waste shall first procure from the department an annual or single trip permit for each vehicle so driven in which the shipment meets any one of the following qualifiers:

- (a) Is required to be placarded pursuant to title 49, code of federal regulations, part 172;
- (b) Is manifested on a United States environmental protection agency uniform hazardous waste manifest form 8700-22 and 8700-22A, or its equivalent;
- (c) Is any waste material containing polychlorinated biphenyls (PCB) which is regulated by title 40, code of federal regulations, part 761; but in the event waste material is being transported to a disposal facility approved in compliance with 40 CFR 761.70 or 40 CFR 761.75 and is accompanied by a hazardous waste manifest form 8700-22 or 8700-22A, or its equivalent, then a permit shall be required regardless of the polychlorinated biphenyl concentration.

This permit shall be available for examination and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall not apply to vehicles owned by any city, county, state or federal governmental department or agency, special purpose district created pursuant to law or rural electric cooperatives.

(2) The fee for a single trip permit for the transportation of hazardous waste shall be twenty dollars (\$20.00).

(3) The fee for an annual permit for the transportation of hazardous waste shall be two hundred fifty dollars (\$250).

(4) Any carrier required to pay the fees assessed pursuant to this section is authorized to pass along such fees to the shipping party. No portion of the fees shall be prorated, reduced or transferred to another vehicle.

(5) The department may select vendors to serve as agents on state highways for the purpose of selling hazardous waste permits where fixed ports of entry do not adequately serve a respective highway entering the state. The vendor shall be remunerated at the rate determined by contract between the vendor and the department per permit sold, and the vendor shall collect the fees provided in this section, and pay the fees to the department. The vendor shall guarantee payment by giving a bond to the state of Idaho in a sum as shall be fixed by the department, the premium on the bond to be paid by the department.

(6) The operation of a vehicle, which is subject to the permit requirements of this section in a negligent manner is a violation of the provisions of this chapter. [I.C., § 49-2504, as added by 1986, ch. 231, § 4, p. 627; am. 1987, ch. 345, § 1, p. 733; am. and redesisg. 1988, ch. 265, § 443, p. 549; am. 1989, ch. 317, § 1, p. 816; am. 1990, ch. 331, § 1, p. 908; am. 2006, ch. 20, § 1, p. 78.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 20, substituted “8700-22A” for “8700-22a” in subsections (1)(b) and (c), substituted “determined by contract between the vendor and the department” for “of two dollars (\$2.00)” in subsection (5).

Compiler’s Notes. — This section was formerly compiled as § 49-2504 and was amended and redesignated by § 454 of S.L. 1988, ch. 265 to become this section.

Former § 49-2202 was amended and redesignated as § 49-2101 by § 446 of S.L. 1988, ch. 265.

EPA forms 8700-22 and 8700-22A, referred to in subsection (1), can be found in the Appendix to 40 C.F.R. Part 262.

Effective Dates. — Section 2 of S.L. 1989, ch. 317 declared an emergency. Approved April 5, 1989.

49-2203. Endorsement requirements for transporters of hazardous materials. — (1) Every person, including a private carrier or a common or contract carrier, who operates a vehicle on any highway of this state transporting hazardous material in such quantity and under such conditions that such vehicle is required to be placarded pursuant to title 49, code of federal regulations, part 172, or such vehicle’s cargo is regulated by title 49, code of federal regulations, part 171, or is required to meet the manifest requirements as set forth under the rules of the department of environmental quality, shall first procure from the department an annual vehicle registration endorsement or single trip vehicle registration endorse-

ment for each vehicle so driven. This registration endorsement shall be available for examination and shall be displayed in accordance with rules adopted by the department. The provisions of this section shall not apply to vehicles owned by any city, county, state or federal governmental department or agency or special purpose district created pursuant to law.

(2) The fee for an annual vehicle registration endorsement for the transportation of hazardous materials shall be three dollars (\$3.00) if purchased at the time of registration or renewal, or five dollars (\$5.00) if purchased at any time thereafter and the fee for a single trip vehicle registration endorsement shall be five dollars (\$5.00). Any carrier required to pay the fee assessed pursuant to this section is authorized to pass along such fee to the shipping party. Vendors selling endorsements on behalf of the board shall be reimbursed at the rate of forty cents (40¢) per endorsement. No portion of the annual endorsement fee shall be prorated, reduced or transferred to another vehicle.

(3) The operation of a vehicle, which is subject to the endorsement requirements of this section, in a negligent manner is a violation of the provisions of this chapter. [I.C., § 49-2505, as added by 1986, ch. 231, § 4, p. 627; am. 1987, ch. 345, § 2, p. 733; am. and redesisg. 1988, ch. 265, § 455, p. 549; am. 1990, ch. 331, § 2, p. 908; am. 2001, ch. 103, § 89, p. 253.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2505 and was amended and redesignated by § 455 of S.L. 1988, ch. 265 to become this section. Former § 49-2203 was amended and redesignated as § 49-2102 by § 447 of S.L. 1988, ch. 265.

49-2204. Notice of federal insurance requirements. — A transporter granted a transporter permit or endorsement under this section shall have and maintain financial responsibility for sudden and accidental occurrences in an amount equal to the federal requirements as specified in title 49, code of federal regulations. Coverage must provide for claims arising out of injury to persons, property, or the environment, including the spillage of hazardous material or waste while such materials are transported, and including the costs of cleaning up any spillage. Such liability coverage must be maintained at all times while the permit is in force. The liability requirements may be met by liability insurance, bonding, self insurance or any other method as may be provided by department rule. Failure to maintain the insurance required by federal law shall not constitute a civil or criminal violation of the provisions of this chapter. [I.C., § 49-2506, as added by 1986, ch. 231, § 4, p. 627; am. and redesisg. 1988, ch. 265, § 456, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2506 and was amended and redesignated by § 456 of S.L. 1988, ch. 265 to become this section. Former § 49-2204 was amended and redesignated as § 49-2103 by § 448 of S.L. 1988, ch. 265.

49-2205. Hazardous material/hazardous waste transportation enforcement fund. — (1) For the purposes of the Idaho state police, there is hereby created a fund in the state treasury, to be designated the hazardous material/hazardous waste transportation enforcement fund.

(2) The fund shall consist of:

- (a) Moneys appropriated to the fund;
- (b) Moneys as provided in sections 49-2202 and 49-2203, Idaho Code, and in subsections (1) and (2) of section 49-2209, Idaho Code;
- (c) Donations, gifts and grants from any source; and
- (d) Any other moneys which may hereafter be provided by law.

(3) Moneys in the fund may be used by the director for reasonable costs incident to enforcement of the laws and rules related to the transportation of hazardous material or hazardous waste. Such costs include expenditures for inspection and monitoring programs, training of law enforcement personnel to meet specialized needs of hazardous materials/hazardous waste enforcement, and other reasonable expenses necessary for the enforcement of such programs.

(4) All moneys placed in the fund shall be appropriated annually by the legislature for the purposes described in subsection (3) of this section. All expenditures from the fund shall be paid out in warrants drawn by the state controller upon presentation of the proper vouchers.

(5) Pending use, surplus moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code.

(6) An amount of money equal to the actual and reasonable cost of issuing the permits and endorsements, collecting the moneys for them, and the direct administrative costs as determined by the department and certified by the state controller, shall be paid to the state highway fund established in section 40-702, Idaho Code. [I.C., § 49-2507, as added by 1986, ch. 231, § 4, p. 627; am. and redesign. 1988, ch. 265, § 457, p. 549; am. 1994, ch. 180, § 90, p. 420; am. 2000, ch. 469, § 121, p. 1450.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2507 and was amended and redesignated by § 457 of S.L. 1988, ch. 265 to become this section.

Former § 49-2205 was amended and redesignated as § 49-2104 by § 449 of S.L. 1988, ch. 265.

Effective Dates. — Section 241 of S.L. 1994, ch. 180 provided that such act should become effective on and after the first Monday

in January, 1995 [January 2, 1995] if the amendment to the Constitution of Idaho changing the name of the state auditor to state controller [1994 S.J.R. No. 109, p. 1493] was adopted at the general election held on November 8, 1994. Since such amendment was adopted, the amendment to this section by § 90 of S.L. 1994, ch. 180 became effective January 2, 1995.

49-2206. Enforcement. — (1) The provisions of this chapter and any rules adopted under it shall be enforced anywhere in the state by an authorized agent of the director or by any peace officer, except for conservation officers of the department of fish and game. Such authorized officers may detain and inspect any sealed or unsealed vehicle, container, or shipment which contains or which they have reason to believe contains

hazardous material or wastes while in transit or in maintenance facilities or terminals, or on other public or private property to which the public has access, to ascertain if hazardous materials or wastes are being loaded, unloaded, stored or transported, and to inspect the contents, take samples thereof, and to otherwise insure compliance with the provisions of this chapter and of all rules adopted under section 67-2901A, Idaho Code, or chapter 44, title 39, Idaho Code. If a seal is opened for inspection, the inspecting officer shall reseal any vehicle, container or shipment prior to further transportation. Property used in violation of the laws may be seized and used as evidence.

(2) For the purposes of this chapter and chapter 44, title 39, Idaho Code, the transporter is responsible for the cleanup of any hazardous material/hazardous waste discharge in, on and outside the vehicle, or any one (1) or more of such locations, that occurs during transportation and must take such action as may be required so that the discharge no longer presents a hazard to public health, safety, or the environment.

(3) The board is authorized to suspend or revoke any permit or endorsement issued pursuant to this chapter if it is determined that any material provision of the permit or endorsement has been violated or if the driver, owner, lessee, or custodian of a permitted vehicle has been convicted of two (2) or more violations within a calendar year of any combination of statutes or rules relative to hazardous materials or hazardous waste. In any action to suspend or revoke, the board shall comply with the procedures specified in chapter 52, title 67, Idaho Code. Should the board have reasonable cause to believe that there exists any immediate danger to the public health, safety or environment, it may issue an emergency order suspending any permit or endorsement granted under this chapter for a reasonable period not to exceed fourteen (14) days. [I.C., § 49-2508, as added by 1986, ch. 231, § 4, p. 627; am. and redesign. 1988, ch. 265, § 458, p. 549; am. 1999, ch. 383, § 10, p. 1051.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2508 and was amended and redesignated by § 458 of S.L. 1988, ch. 265 to become this section. Former § 49-2206 was amended and redesignated as § 49-2105 by § 450 of S.L. 1988, ch. 265.

49-2207. Civil enforcement action. — The attorney general or any prosecuting attorney may commence and prosecute in district court a civil enforcement action against any person who is alleged to have violated this chapter or any permit, endorsement, standard, regulation, condition, or requirement which has become effective pursuant to this chapter. Such actions may be for appropriate relief or remedies specified in this chapter or any other applicable law. The director or department shall not be required to initiate or prosecute an administrative action before the attorney general or prosecuting attorney may commence and prosecute a civil enforcement action, but no such civil enforcement action shall be filed while an administrative action is still pending. [I.C., § 49-2509, as added by 1986, ch. 231,

§ 4, p. 627; am. 1987, ch. 105, § 1, p. 216; am. and redesisg. 1988, ch. 265, § 459, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was Former § 49-2207 was amended and redes- formerly compiled as § 49-2509 and was ignated as § 49-2106 by § 451 of S.L. 1988, amended and redesignated by § 459 of S.L. ch. 265. 1988, ch. 265 to become this section.

49-2208. Subpoena authority. — The attorney general or any prosecuting attorney, for the purposes contemplated by this chapter, upon probable cause to believe that a violation of any of the provisions of this chapter has occurred, may, after notice to the persons to whom the subpoena is to be directed, apply to any judge of the district court for the county in which such violation is believed to have occurred for a subpoena to compel the attendance of witnesses, and to compel the production of pertinent books, payrolls, accounts, papers, records, documents and testimony. Such judge shall issue a subpoena upon a finding of probable cause and shall enforce refusals to testify or to produce subpoenaed items with contempt sanctions. Subpoenas shall be served and witness fees and mileage paid as allowed in civil cases in the district courts of this state. [I.C., § 49-2510, as added by 1986, ch. 231, § 4, p. 627; am. and redesisg. 1988, ch. 265, § 460, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-2208, which comprised 1965, ch. 145, § 8, p. 283, was repealed by S.L. 1988, ch. 265, § 452, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-2510 and was amended and redesignated by § 460 of S.L. 1988, ch. 265 to become this section.

49-2209. Civil remedies. — The remedies specified in this section are cumulative and nonexclusive.

- (1) Monetary penalties.
 - (a) Any person who makes a materially false statement or representation in any application, label, manifest, record, report, permit, endorsement or other document filed, maintained, or used for the purpose of complying with the provisions of this chapter shall be liable for a civil penalty not less than fifty dollars (\$50.00) nor to exceed ten thousand dollars (\$10,000) for each separate violation.
 - (b) Any person who violates this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter shall be liable for a civil penalty not less than fifty dollars (\$50.00) nor to exceed ten thousand dollars (\$10,000) for each separate violation.
 - (c) The imposition or computation of monetary penalties shall take into account the seriousness of the violation and good faith efforts to comply with the law.

(2) Assessment of costs. Any person who violates any of the provisions of this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter may be assessed for:

(a) The state's cost for any nonroutine investigations, inspections, monitoring, or surveys which lead to evidence of the violation;

(b) The state's costs, and the costs of any political subdivision including city, county and fire protection districts, including the reasonable value of attorneys' services, for preparing and litigating the case;

(c) The state's cost, and the costs of any political subdivision including city, county and fire protection districts, for impounding, storing, and disposing of contaminated property and for the cleanup of a hazardous material or hazardous waste discharge;

(d) Compensation for damages to publicly held resources including, but not limited to land, water, recreational uses, wildlife, fish and aquatic life to restore the resource to its highest immediately previous uses. Any such suit for damages to publicly held resources may be brought only by the attorney general or prosecuting attorney for the county in which the violation occurred;

(e) Compensation for damages to privately held resources including, but not limited to livestock, land, water, or other personal property, and compensation for court costs allowed by law, reasonable attorney's fees for trial preparation and trial of the case, and all other reasonable costs of trial preparation and trial of the case;

(3) Payment to hazardous materials/hazardous waste transportation enforcement account. Moneys recovered pursuant to subsections (1) and (2)(a), (c) and (d) of this section shall be paid into the hazardous material/hazardous waste transportation enforcement account created in section 49-2205, Idaho Code. Moneys recovered under subsection (2)(b) of this section shall not be paid into this account but shall be paid to those who rendered services and incurred costs in litigating the case.

(4) Restraining orders, injunctions and other relief. Any person who violates any provision of this chapter or any permit, standard, regulation, or requirement issued or promulgated pursuant to this chapter shall be subject to injunctive relief or other relief deemed appropriate. Upon a showing to the court that a violation is causing an imminent hazard to the public health, the public safety, or to the environment, the attorney general or prosecuting attorney need not allege or prove at any stage of the proceeding that long term irreparable damage will occur should the injunction or order not be issued or that the remedy at law is inadequate. [I.C., § 49-2511, as added by 1986, ch. 231, § 4, p. 627; am. 1987, ch. 105, § 2, p. 216; am. and redesign. 1988, ch. 265, § 461, p. 549; am. 1990, ch. 191, § 1, p. 422.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 461 of S.L. formerly compiled as § 49-2511 and was 1988, ch. 265 to become this section.

49-2210. Immunities. — (1)(a) Notwithstanding any provision of law to the contrary, no person who provides assistance or advice in mitigating or

attempting to mitigate the effects of an actual or threatened leakage, seepage, or other release of hazardous material, or in preventing, cleaning up, or disposing of or in attempting to prevent, clean up or dispose of any such leakage, seepage or other release, shall be subject to civil liabilities or penalties of any type.

(b) The immunities provided in subsection (3) of section 49-2209, Idaho Code, [subsection (1)(a) of this section] shall not apply to any person:

1. Whose act or omission caused in whole or in part such actual or threatened leakage, seepage or other release and would otherwise be liable therefor; or

2. Who receives compensation, or is an employee of a person who receives compensation for services rendered in connection with the emergency, from a person whose act or omission caused in whole or in part the emergency, other than reimbursement for out-of-pocket expenses for services in rendering such assistance or advice.

(c) Nothing in subsection (3) of section 49-2209, Idaho Code, [subsection (1)(a) of this section] shall be construed to limit or otherwise affect the liability of any person for damages resulting from such person's gross negligence, or from such person's reckless, wanton, or intentional misconduct.

(2) Governmental immunity. No cause of action shall accrue against the state of Idaho or any of its political subdivisions or any agency thereof based on negligence in a performance of any of the duties or responsibilities provided under this chapter. [I.C., § 49-2512, as added by 1986, ch. 231, § 4, p. 627; am. and redesign. 1988, ch. 265, § 462, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2512 and was amended and redesignated by § 462 of S.L. 1988, ch. 265 to become this section.

Following the revision of Title 49, by S.L.

1988, Chapter 265, the references, in paragraphs (1)(b) and (1)(c), to subsection (3) of section 49-2209, Idaho Code, should be to "subsection (1)(a) of this section".

49-2211. Criminal enforcement and penalties. — (1) Any person who knowingly makes any materially false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained or used for the purpose of complying with the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than ten thousand dollars (\$10,000) or to imprisonment not to exceed one (1) year, or to both, for each violation.

(2) Any person who knowingly violates any provision of this chapter or any permit, standard, regulation, condition, or requirement issued or promulgated pursuant to this chapter shall be guilty of a misdemeanor and subject to a fine of not more than ten thousand dollars (\$10,000) or to imprisonment not to exceed one (1) year, or to both, for each violation.

(3) Any person found guilty of a second offense under this chapter within a period of five (5) years shall be guilty of a misdemeanor punishable by a fine not to exceed twenty-five thousand dollars (\$25,000).

(4) An action may be commenced and prosecuted by the attorney general. The director or board shall not be required to initiate or prosecute an administrative action before the attorney general or prosecuting attorney may commence and prosecute a civil action. [I.C., § 49-2513, as added by 1986, ch. 231, § 4, p. 627; am. and redesign. 1988, ch. 265, § 463, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was amended and redesignated by § 463 of S.L. formerly compiled as § 49-2513 and was 1988, ch. 265 to become this section.

49-2212. Change of federal rules and regulations. — Whenever any federal rule or regulation is cited in this chapter and is amended, modified, repealed or recodified, its successor rule or regulation shall govern and be operative. [I.C., § 49-2514, as added by 1986, ch. 231, § 4, p. 627; am. and redesign. 1988, ch. 265, § 464, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-2514 and was amended and redesignated by § 464 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

CHAPTER 23

[RESERVED]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2301, which comprised 1965, ch. 264, § 1, p. 668, was repealed by S.L. 1988, ch. 265, § 465, effective January 1, 1989.

Former §§ 49-2302 — 49-2328 were amended and redesignated as §§ 41-4502 — 41-4528 by §§ 504-530 of S.L. 1988, ch. 265.

Former §§ 49-2329 and 49-2330, which comprised 1965, ch. 264, §§ 29, 30, p. 668, were repealed by S.L. 1988, ch. 265, § 465, effective January 1, 1989.

Former § 49-2331 was amended and redesignated as § 41-4529 by § 531 of S.L. 1988, ch. 265.

CHAPTER 24

MISCELLANEOUS

SECTION.

- 49-2401. Manufacturers or distributors —
Financing agreements involving retail sales prohibited.
- 49-2402. Threats to withdraw agency prohibited.
- 49-2403. Threats on part of financing company affiliated with manufacturer or dealer.
- 49-2404. Practices of manufacturer or dis-

SECTION.

- tributor lessening or eliminating competition prohibited.
- 49-2405. Practices of finance company lessening or eliminating competition prohibited.
- 49-2406. Acceptance or payment of thing or service of value prohibited.
- 49-2407. Violation — Quo warranto proceedings.

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- 49-2408. Foreign corporations amenable —
Duty of secretary of state.
- 49-2409. Criminal liability.
- 49-2410. Certain contracts void.
- 49-2411. Provisions cumulative.
- 49-2412. Persons injured in business by trust
may sue.
- 49-2413, 49-2414. [Reserved.]
- 49-2415. Liability of motor owner to guest.
- 49-2416. Owner liable for negligence of mi-
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- 49-2427. Identification of state police vehi-
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- 49-2428 — 49-2430. [Reserved.]
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- 49-2439. Use of public motor vehicles.
- 49-2440, 49-2441. [Reserved.]
- 49-2442. Identification cards authorized.
- 49-2443. Application.
- 49-2444. Identification card issued — Four-
year or eight-year.
- 49-2445. Lost, stolen or mutilated cards.
- 49-2446. Fraudulent misrepresentation.

49-2401. Manufacturers or distributors — Financing agreements involving retail sales prohibited. — It shall be unlawful for any person who is engaged, either directly or indirectly, in the manufacture or whole-sale distribution only of motor vehicles to sell or enter into a contract to sell motor vehicles, whether patented or unpatented, to any person who is engaged or intends to engage in the business of selling those motor vehicles at retail in this state, on the condition or with an agreement or understand- ing, either express or implied, that a person engaged in selling motor vehicles at retail shall in any manner finance the purchase or sale of any one or a number of motor vehicles only with or through a designated person or class of persons, or shall sell and assign the conditional sales contracts, chattel mortgages or leases arising from the sale of motor vehicles or any one or a number of motor vehicles only to a designated person or class of persons, when the effect of the condition, agreement or understanding entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who are designated by virtue of that condition, agreement, or understanding to finance the pur- chase or sale of motor vehicles, or to purchase conditional sales contracts, chattel mortgages or leases.

Any such condition, agreement or understanding is hereby declared to be void and against the public policy of this state. [1937, ch. 96, § 1, p. 136; am. and redesign. 1988, ch. 265, § 467, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1901 and was amended and redesignated by § 467 of S.L. 1988, ch. 265 to become this section.

Former § 49-2401 was amended and redesi- gnated as § 49-1601 by § 374 of S.L. 1988, ch. 265.

Effective Dates. — Section 586 of S.L.

1988, ch. 265 provided that the act should take effect January 1, 1989.

49-2402. Threats to withdraw agency prohibited. — Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, either directly or indirectly in the manufacture or wholesale distribution only of motor vehicles, that the person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, whether patented or unpatented, to a person who is engaged in the business of selling motor vehicles at retail, unless that person finances the purchase or sale of any one or a number of motor vehicles only with or through a designated person or class of persons, or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sales of motor vehicles, or any one or a number of motor vehicles only to a designated person or class of persons, shall be prima facie evidence of the fact that a person engaged in the manufacture or wholesale distribution only of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section 49-2401, Idaho Code. [1937, ch. 96, § 2, p. 136; and redesign. 1988, ch. 265, § 468, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-2402, which comprised 1965, ch. 290, § 2, p. 759; am. 1967, ch. 62, § 2, p. 127; am. 1974, ch. 27, § 169, p. 811; am. 1978, ch. 243, § 2, p. 521; am. 1979, ch. 187, § 1, p. 544; am. 1982, ch. 95, § 107, p. 185; am. 1985, ch. 117, § 5, p.

242, was repealed by S.L. 1988, ch. 265, § 46, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-1902 and was amended and redesignated by § 468 of S.L. 1988, ch. 265 to become this section.

49-2403. Threats on part of financing company affiliated with manufacturer or dealer. — Any threat, expressed or implied, made directly or indirectly, to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles in this state, and is affiliated with or controlled by any person engaged, directly or indirectly in the manufacture or wholesale distribution only of motor vehicles, that the person engaged in the manufacture or distribution shall terminate his contract with or cease to sell motor vehicles to a person engaged in the sale of motor vehicles at retail in this state unless that person finances the purchase or sale of any one or any number of vehicles only with or through a designated person or class of persons, or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sale of motor vehicles, or any one or any number thereof only to a person engaged in financing the purchase or sale of motor vehicles, or in buying conditional sales contracts, chattel mortgages or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of the person engaged in the manufacture or distribution of motor vehicles, and shall be prima facie evidence of

the fact that the person engaged in the manufacture or wholesale distribution only of motor vehicles has sold or intends to sell them on the condition or with the agreement or understanding prohibited in section 49-2401, Idaho Code. [1937, ch. 96, § 3, p. 136]; am. and redesign. 1988, ch. 265, § 469, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1903 and was amended and redesignated by § 469 of S.L. 1988, ch. 265 to become this section. Former § 49-2403 was amended and redesignated as § 49-1602 by § 375 of S.L. 1988, ch. 265.

49-2404. Practices of manufacturer or distributor lessening or eliminating competition prohibited. — It shall be unlawful for any person who is engaged, directly or indirectly in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, to pay or give, or contract to pay or give any thing or service of value to any person who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state, if the effect of the payment or the giving of a thing or service of value may be to lessen or eliminate competition, or tend to create or create a monopoly in the person or class of persons who receive or accept such thing or service of value. [1937, ch. 96, § 4, p. 136; am. and redesign. 1988, ch. 265, § 470, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1904 and was amended and redesignated by § 470 of S.L. 1988, ch. 265 to become this section. Former § 49-2404 was amended and redesignated as § 49-1603 by § 376 of S.L. 1988, ch. 265.

49-2405. Practices of finance company lessening or eliminating competition prohibited. — It shall be unlawful for any person who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state, to accept or receive, or contract or agree to accept or receive, either directly or indirectly, any payment, thing, or service of value from any person who is engaged, either directly or indirectly, in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, if the effect of the acceptance or receipt of a payment, thing, or service of value may be to lessen or eliminate competition, or to create or tend to create a monopoly in the person who accepts or receives the payment, thing, or service of value, or contracts or agrees to accept or receive that thing or service of value. [1937, ch. 96, § 5, p. 136; am. and redesign. 1988, ch. 265, § 471, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1905 and was amended and redesignated by § 471 of S.L. 1988, ch. 265 to become this section.

Former § 49-2405 was amended and redesignated as § 49-1604 by § 377 of S.L. 1988, ch. 265.

49-2406. Acceptance or payment of thing or service of value prohibited. — It shall be unlawful for any person to accept or receive, either directly or indirectly, any payment, thing or service of value, as set forth in section 49-2405, Idaho Code, or contracts, either directly or indirectly, to receive a payment or thing or service of value to finance or attempt to finance the purchase or sale of any motor vehicles, or buy or attempt to buy any conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail in this state. [1937, ch. 96, § 6, p. 136; am. and redesisg. 1988, ch. 265, § 472, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1906 and was amended and redesignated by § 472 of S.L. 1988, ch. 265 to become this section.

Former § 49-2406 was amended and redesignated as § 49-1605 by § 378 of S.L. 1988, ch. 265.

49-2407. Violation — Quo warranto proceedings. — For a violation of any of the provisions of sections 49-2401 through 49-2406, Idaho Code, by any corporation or association, it shall be the duty of the attorney general of Idaho to institute proper suits of quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by the corporation or association, and for the dissolution of them under the general statutes of this state. [1937, ch. 96, § 7, p. 136; am. and redesisg. 1988, ch. 265, § 473, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1907 and was amended and redesignated by § 473 of S.L. 1988, ch. 265 to become this section.

Former § 49-2407 was amended and redesignated as § 49-1606 by § 379 of S.L. 1988, ch. 265.

49-2408. Foreign corporations amenable — Duty of secretary of state. — Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises or functions of a corporation in Idaho, violating any of the provisions of sections 49-2401 through 49-2406, Idaho Code, is hereby denied the right and prohibited from doing any business in Idaho, and it shall be the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state is authorized to revoke the license of any corporation or association previously authorized by him to do business in Idaho. [1937, ch. 96, § 8, p. 136; am. and redesisg. 1988, ch. 265, § 474, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1908 and was amended and redesignated by § 474 of S.L. 1988, ch. 265 to become this section. Former § 49-2408 was amended and redesignated as § 49-1607 by § 280 of S.L. 1988, ch. 265.

49-2409. Criminal liability. — Any person who shall violate any of the provisions of sections 49-2401 through 49-2406, Idaho Code, any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by law and any employee, agent or officer of any person who shall participate, in any manner, in making, executing, enforcing, performing or in urging, aiding, or abetting in the performance of such a contract, condition, agreement or understanding, and any person who shall pay or give or contract to pay or give any thing or service of value prohibited by law, and any person who shall receive or accept or contract to receive or accept any thing or service of value prohibited by law, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or be imprisoned for not less than six (6) months nor more than one (1) year, or by both such fine and imprisonment. Each day's violation of this provision shall constitute a separate offense. [1937, ch. 96, § 9, p. 136; am. and redesign. 1988, ch. 265, § 475, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1909 and was amended and redesignated by § 475 of S.L. 1988, ch. 265 to become this section. Former § 49-2409 was amended and redesignated as § 49-1608 by § 381 of S.L. 1988, ch. 265.

49-2410. Certain contracts void. — Any contract or agreement in violation of the provisions of sections 49-2401 through 49-2406, Idaho Code, shall be absolutely void and shall not be enforceable either in law or equity. [1937, ch. 96, § 10, p. 136; am. and redesign. 1988, ch. 265, § 476, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1910 and was amended and redesignated by § 476 of S.L. 1988, ch. 265 to become this section. Former § 49-2410 was amended and redesignated as § 49-1609 by § 382 of S.L. 1988, ch. 265.

49-2411. Provisions cumulative. — The provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state. [1937, ch. 96, § 11, p. 136; am. and redesign. 1988, ch. 265, § 477, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1911 and was amended and redesignated by § 477 of S.L. 1988, ch. 265 to become this section.

Former § 49-2411 was amended and redesignated as § 49-1610 by § 383 of S.L. 1988, ch. 265.

49-2412. Persons injured in business by trust may sue. — In addition to the criminal and civil penalties provided, any person who shall be injured in his business or property by any other person by reason of anything forbidden or declared to be unlawful by the provisions of sections 49-2401 through 49-2406, Idaho Code, may sue therefor in any court having jurisdiction in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twice the damages sustained, and the costs of the suit. Whenever it shall appear to the court before which proceedings may be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where the action is pending, or not. [1937, ch. 96, § 12, p. 136; am. and redesign. 1988, ch. 265, § 478, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1912 and was amended and redesignated by § 478 of S.L. 1988, ch. 265 to become this section.

Former § 49-2412 was amended and redesignated as § 49-1611 by § 384 of S.L. 1988, ch. 265.

49-2413, 49-2414. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-2413 and 49-2414 were amended and redesignated

as §§ 49-1612 and 49-1613 by §§ 385 and 386 of S.L. 1988, ch. 265.

49-2415. Liability of motor owner to guest. — No person transported by the owner or operator of a motor vehicle as his guest without payment for such transportation shall have a cause for damages against such owner or operator for injuries, death or loss, in case of accident, unless such accident shall have been intentional on the part of the said owner or operator or caused by his intoxication or gross negligence.

The provisions of this section shall not relieve a public carrier or any owner or operator of a motor vehicle while the same is being demonstrated to a prospective purchaser of responsibility for injuries sustained by a passenger being transported by such public carrier or by such owner or operator. [1931, ch. 135, §§ 1, 2, p. 232; I.C.A., § 48-901; I.C.A., § 48-902; am. 1939, ch. 160, § 1, p. 285; am. 1963, ch. 114, § 1, p. 337; am. and redesign. 1988, ch. 265, § 479, p. 549.]

STATUTORY NOTES

Compiler's Notes. — Section 479 of S.L. 1988, ch. 265 amended and redesignated

§§ 49-1401 and 49-1402 to become this section.

Former § 49-2415 was amended and redesignated as § 49-1614 by § 387 of S.L. 1988, ch. 265.

Note. In reading the annotations to this section it should be kept in mind that the

phrase "reckless disregard of the rights of others" was changed to "gross negligence" by the 1963 amendment to § 49-1401 prior to its recodification with § 49-1402 as this section by § 479 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

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Application.

The supreme court's action in holding this section violative of the equal protection clauses of both the Idaho and the United States Constitutions in *Thompson v. Hagan*, 96 Idaho 19, 523 P.2d 1365 (1974), and the legislature's lack of action in neither reenacting this section nor attempting to correct its constitutional defects, indicate that Idaho's relevant policies are opposed to the application of a guest statute in cases heard in Idaho. *DeMeyer v. Maxwell*, 103 Idaho 327, 647 P.2d 783 (Ct. App. 1982).

Burden of Proof.

In an action brought before the guest statute became effective, it was unnecessary that proof be given that the host was guilty of gross negligence. *Willi v. Schaefer Hitchcock Co.*, 53 Idaho 367, 25 P.2d 167 (1933).

In an action for the death of a guest, who was riding in an automobile being driven by defendant's salesman, plaintiffs were required to prove gross negligence in the operation of the automobile. *Manion v. Waybright*, 59 Idaho 643, 86 P.2d 181 (1938).

In an action under this section for the death of a guest, the burden is on plaintiff to show that the accident was intentional on the part of the operator of the car or was caused by his reckless disregard of the rights of others. *Hughes v. Hudelson*, 67 Idaho 10, 169 P.2d 712 (1946).

In order for plaintiff to recover for personal injuries sustained while riding as a guest in defendant's automobile, she must overcome the burden imposed by this section, and a showing of ordinary negligence on the part of defendant will not suffice. *Foberg v. Harrison*, 71 Idaho 11, 225 P.2d 69 (1950).

If guest seeks to recover from driver on the basis that driver was operating car in reckless disregard of rights of others, he has the burden of proof. *Mason v. Mootz*, 73 Idaho 461, 253 P.2d 240 (1953).

In a suit by guest to recover damages from driver arising out of automobile accident, there must be proof that injuries were sustained as the result of reckless disregard of guest's rights by the driver. *Loomis v. Church*, 76 Idaho 87, 277 P.2d 561 (1954).

In a guest case, the burden is on the plaintiff to prove that the accident was caused by conduct on the part of the defendant amounting to reckless disregard; proof of ordinary negligence will not suffice. *Smith v. Sharp*, 85 Idaho 17, 375 P.2d 184 (1962).

Conduct Supporting Recovery.

A condition to the right of recovery is that the guest must show that the accident was caused by reckless disregard of the rights of others on the part of the owner or operator of the motor vehicle. *Hunter v. Horton*, 80 Idaho 475, 333 P.2d 459 (1958).

Conduct at times and places prior to the accident, even though reckless, which has no causal connection with the accident, cannot support a recovery under the guest statute. *Hunter v. Horton*, 80 Idaho 475, 333 P.2d 459 (1958).

Constitutionality.

Since the guest statute's (this section's) denial of the guest's negligence cause of action against his host does not bear a rational relationship to the objectives of the statute of promotion of hospitality, prevention of collusion and parity between licensees and automobile guests and since the statute by denying automobile guests a negligence cause of action against their host, but allowing negligence actions against the host by paying passengers, guests in other automobiles and pedestrians draw an impermissible classification scheme, it is in violation of the equal protection laws guarantees of the Idaho and U.S. Constitutions and the unconstitutionality applies to all pending actions at the date of this decision and to all actions arising in the future. *Thompson v. Hagan*, 96 Idaho 19, 523 P.2d 1365 (1974). But see *Brockman Mobile Home Sales v. Lee*, 98 Idaho 530, 567 P.2d 1281 (1977).

Contributory Negligence as Defense.

Ordinary contributory negligence is not a defense in an action based upon reckless disregard of the rights of others under the guest statute. *Smith v. Sharp*, 85 Idaho 17, 375 P.2d 184 (1962).

Contributory negligence may be asserted against alleged intoxication or gross negligence, but not against intentional injury under this section as amended in 1963. *Hodge v. Borden*, 91 Idaho 125, 417 P.2d 75 (1966).

Defense.

Ordinary negligence of guest is not a defense in suit by guest against driver for reckless disregard of guest's rights. *Loomis v. Church*, 76 Idaho 87, 277 P.2d 561 (1954).

Derivative Liability.

The derivative liability of an employer to a third person is not limited to the amount of a judgment on the merits against the agent or servant, but a greater judgment may be recovered against the employer. *R.J. Reynolds Tobacco Co. v. Newby*, 153 F.2d 819 (9th Cir. 1946).

Evidence.

Evidence concerning the reputation, among the members of the general public, of the operator of the automobile as a driver is admissible, its weight being for the jury. *R.J. Reynolds Tobacco Co. v. Newby*, 153 F.2d 819 (9th Cir. 1946).

In wrongful death action where evidence showed that automobile was being driven

under circumstances indicating headlong rashness and that driver knew the automobile should be driven carefully, reckless disregard for the safety of others within meaning of statute was sufficiently established. *R.J. Reynolds Tobacco Co. v. Newby*, 145 F.2d 768 (9th Cir. 1944).

Evidence that driver proceeding on highway on dark night at medium rate of speed attempted to apply brakes and drive around horses which suddenly appeared in front of driver was not proof of "reckless disregard." *Mason v. Mootz*, 73 Idaho 461, 253 P.2d 240 (1953).

Action for damages by guest was properly dismissed as against host driver where the record showed that host was not driving at an excessive rate of speed under the circumstances, and the failure of host to see potato digger in time to avoid accident could not be considered more than ordinary negligence. *Turner v. Purdum*, 77 Idaho 130, 289 P.2d 608 (1955), overruled on other grounds, *Schaub v. Linehan*, 92 Idaho 332, 442 P.2d 742 (1968).

A consideration of all the evidence disclosed that it was insufficient to establish that defendant was guilty of reckless disregard within the guest statute in suit brought for personal injury sustained as the result of a collision between automobile of host driver and automobile of third party occurring on a relatively straight highway, both parties being allegedly over the center line of the highway. *Grant v. Clarke*, 78 Idaho 412, 305 P.2d 752 (1956).

The evidence in the present case lacked the essential elements of reckless disregard where, when driver made the attempt to pass on a slight curve, the road ahead was free of other traffic and her passing speed did not exceed 50 to 60 miles per hour, there being nothing in the facts from which it could be inferred the 15 year old girl driver was conscious of any danger in attempting to pass the other car or that she was aware or should have been aware of the possibility that the left wheel might go over the left edge of the pavement and cause her to lose control, there being nothing to indicate a willingness on her part to assume the risk, or an indifference to the consequences thereof which would create liability for the death of one of the girl passengers when the car rolled over. *Hunter v. Horton*, 80 Idaho 475, 333 P.2d 459 (1958).

The evidence of conduct of the driver during the course of her driving prior to the time of the accident may be proper and helpful in characterizing the conduct and mental attitude of the driver at the time of the accident, in a doubtful case where such conduct presents a jury question on the issue of reckless disregard. *Hunter v. Horton*, 80 Idaho 475, 333 P.2d 459 (1958).

In an action for damages for the wrongful

death of a child in a two-car collision in which both drivers were killed and to which there were no surviving eyewitnesses, evidence from physical facts after the collision that the car in which the child was a guest passenger was on the wrong side of the road at the time of the collision in violation of former § 49-708 was sufficient to establish that the driver of such car was guilty of negligence per se, but the negligence so established was ordinary negligence and such physical facts were insufficient to establish gross negligence. *Petersen v. Parry*, 92 Idaho 647, 448 P.2d 653 (1968).

Gross Negligence (Subsequent to 1963 Amendment).

Gross negligence, as used in this section, need not include wilfulness, or wanton or intentional disregard for the guest's safety, or conscious indifference to consequences; and there need not be an actual intent to inflict damage or injury. *Hodge v. Borden*, 91 Idaho 125, 417 P.2d 75 (1966).

It does not constitute negligence when one who without fault is suddenly and unexpectedly placed in a perilous situation, so as to be compelled to act instantly and without opportunity to exercise deliberate judgment. *Swa v. Farmers Ins. Exch.*, 93 Idaho 275, 460 P.2d 410 (1969).

Speed alone does not constitute gross negligence. *Swa v. Farmers Ins. Exch.*, 93 Idaho 275, 460 P.2d 410 (1969).

Once a question of gross negligence is present, it is proper for the jury to decide it. *Hansen v. Howard O. Miller, Inc.*, 93 Idaho 314, 460 P.2d 739 (1969).

A jury finding of gross negligence may be based upon evidence tending to show a series or a combination of negligent acts. *Highbarger v. Thornock*, 94 Idaho 829, 498 P.2d 1302 (1972).

The operator of a motor vehicle is guilty of gross negligence if he performs an act, or intentionally fails to perform an act, which it is his duty to perform, knowing or having reason to know of facts which would lead a reasonably prudent man to realize that his conduct creates a degree of risk substantially greater than that which would be created by mere negligent conduct. *Highbarger v. Thornock*, 94 Idaho 829, 498 P.2d 1302 (1972).

Guests.

One who accompanied a driver of an automobile for the purpose of showing him how to find a particular place was not a guest under this section, and hence the driver was required to use ordinary care necessary under the circumstances to prevent injury to him. *George v. Stanfield*, 33 F. Supp. 486 (D. Idaho 1940).

Gratuitous guest cannot recover for host's negligent operation of automobile in case guest is conscious of danger or is faced with

conditions indicating danger, and fails opportunistically to protest. *French v. Tebben*, 53 Idaho 701, 27 P.2d 474 (1933).

In a football player's action against teacher for injuries sustained while riding in teacher's automobile driven by coach, instructions that player was a gratuitous guest and could not recover, unless accident was intentional, or caused by gross negligence, or if he acquiesced in apparent danger, were properly refused, where player had been directed by coach to ride in automobile, since player was not in true sense a "gratuitous guest." *Gorton v. Doty*, 57 Idaho 792, 69 P.2d 136 (1937).

The Idaho legislature has recognized degrees of negligence, and liability to a guest rests on gross negligence. *State v. Kouni*, 58 Idaho 493, 76 P.2d 917 (1938).

As respects employer's liability for the death of a guest, who was killed while riding with employer's traveling salesman, the question whether the guest was employer's guest, and was being carried in the automobile in the interest of employer's business, was immaterial. *Manion v. Waybright*, 59 Idaho 643, 86 P.2d 181 (1938).

Where defendant's salesman drove defendant's automobile into a ditch, at night, and the next morning the body of a guest, who had been riding with the salesman, was found near the place where the automobile stopped, in an action for the death of the guest, evidence sustained the verdict for plaintiffs, as against the contention that the cause of guest's death was uncertain. *Manion v. Waybright*, 59 Idaho 643, 86 P.2d 181 (1938).

Where passenger testified that he told driver of car of condition of village street where a broken water main had caused a natural ditch in highway and passenger was injured by driver striking same, passenger was not guilty of any contributory negligence as a matter of law which proximately caused his injuries. *Naccarato v. Village of Priest River*, 68 Idaho 368, 195 P.2d 370 (1948).

Where plaintiff had previously ridden with third party on round trips between dam and home but rode in car of defendant on trip home as result of promise made by defendant to third party that there would be room for plaintiff the latter was a guest of the defendant. *Riggs v. Roberts*, 74 Idaho 473, 264 P.2d 698 (1953).

Plaintiff, a guest, could not recover damages from defendant for injuries sustained when rear tire blew out while defendant was driving 65 miles per hour. *Riggs v. Roberts*, 74 Idaho 473, 264 P.2d 698 (1953).

Generally speaking a guest is one who takes a ride in a car driven by another person, merely for his own pleasure or on his own business, and without making any return or conferring any benefit on the operator thereof; one who is carried in an automobile gratu-

itously, that is, one who gives no compensation for the carriage. *Buffat v. Schnuckle*, 79 Idaho 314, 316 P.2d 887 (1957).

Where at the inception of the trip the relationship was that of plaintiff owner of the automobile and the defendant was the guest and where the granting of defendant's request to drive was only an act of hospitality, such permission to drive being one which could have been terminated at any time, the status of plaintiff was not that of a "guest without payment" as mentioned in this section; therefore, facts amounting to negligence proximately causing plaintiff's injury being all that was required, a claim for relief was stated. *Peterson v. Winn*, 84 Idaho 523, 373 P.2d 925 (1962).

One who rode with another on a trip to a meeting of the Grand Lodge of the Independent Order of Odd Fellows, to which both belonged, without any agreement for payment for such transportation, but who bought the driver's lunch on one occasion and paid for gasoline twice was a guest and not a participant in a joint venture. *Hamilton v. Miller*, 91 Idaho 27, 415 P.2d 313 (1966).

Instructions.

In wrongful death action resulting from accident in Idaho resulting in deceased's death who was riding as guest in defendant's automobile, the court properly instructed jury that the Idaho guest statute governed. *R.J. Reynolds Tobacco Co. v. Newby*, 145 F.2d 768 (9th Cir. 1944).

In an action by a surviving widow and children to recover damages for the death of the husband and father it was proper to instruct the jury that they might consider both the loss of a legal obligation and of a moral one. *McCoy v. Kregel*, 52 Idaho 626, 17 P.2d 547 (1932).

The court's failure to instruct the jury as to degree of negligence which occupant of an automobile must prove to warrant recovery from driver for injuries is error, requiring reversal, where some instructions related to gross negligence and others to ordinary negligence. *French v. Tebben*, 53 Idaho 701, 27 P.2d 474 (1933).

An instruction to find for the plaintiffs in an action for injuries to guest in automobile driven by defendant, if jury found from the evidence that one plaintiff received injuries as a proximate result of defendant's gross negligence or reckless disregard of such plaintiff's rights, was not erroneous as stating in substance that defendant was grossly negligent, in view of other instructions. *Curtis v. Curtis*, 58 Idaho 76, 70 P.2d 369 (1937).

In an automobile occupant's action for injuries sustained in a collision between meeting automobiles, action of court in instructing jury regarding law applicable to guest riding

in automobile was not error where defendants, by answer, charged that occupant was negligent as a guest. *Evans v. Davidson*, 58 Idaho 600, 77 P.2d 661 (1938).

An instruction defining the phrase "reckless disregard," as formerly used in this section, as destitute of heed or concern for the consequences, and as an act of such conscious indifference to consequences that the jury is justified in saying that the driver wilfully injured his guest, and that "reckless disregard," "wilful disregard," and "wanton disregard" are synonymous terms, was misleading, since "reckless," as used in the statute, means without thought or care for the consequences, but the instruction was not substantially prejudicial calling for a reversal. *Dawson v. Salt Lake Hdwe. Co.*, 64 Idaho 666, 136 P.2d 733 (1943).

Instructions on the law of the road, substantially in the language of the statute, were not subject to criticism that they were confusing, and if other instructions were desired, they should have been presented to the trial court, and this included an instruction on the presumption that the deceased guest exercised due care and caution for her own safety. *Dawson v. Salt Lake Hdwe. Co.*, 64 Idaho 666, 136 P.2d 733 (1943).

In an action for the death of an automobile guest against his host, who was the owner and driver of the automobile involved in the collision wherein negligence was charged against the two defendants other than the host, the court properly instructed the jury on the subject of negligence of such defendants, and that the liability of the host depended on proof not only of negligence, but of reckless disregard of the guest's rights. *Dawson v. Salt Lake Hdwe. Co.*, 64 Idaho 666, 136 P.2d 733 (1943).

Court's instruction attempting to define "reckless disregard" as mindless, negligent, thoughtless, regardless, unconcerned, inattentive, remiss, rash, or inconsiderate, that is, without thought or care of consequence, rather than intentional or purposely, was erroneous and prejudicial to defendant as creating confusion and uncertainty in jurors' minds when read with the other instructions. *Fober v. Harrison*, 71 Idaho 11, 225 P.2d 69 (1950).

The speed of the defendant's car being a controversial issue in the case, the court correctly failed to instruct the jury that the rate of speed of defendant's car at the time of the accident did not constitute reckless disregard of the rights of others on his part. *Smith v. Sharp*, 85 Idaho 17, 375 P.2d 184 (1962).

Where instruction was supplemented by others which dealt with reckless disregard, there was no error in instruction given by the court on negligence nor was it confusing or misleading in an attempt to distinguish be-

tween the two types of negligence, where action was based upon a greater degree of negligence than ordinary negligence. *Smith v. Sharp*, 85 Idaho 17, 375 P.2d 184 (1962).

Where requested instruction as to the river bank and the objects on the river bank tending to blend with the background and the street lights on both sides of the river continuing in an unbroken line was predicated upon an incorrect presumption that the defendant driver had his headlights illuminated and was otherwise operating his automobile in a reasonably prudent manner, the court correctly refused to give it, as such instruction would have invaded the province of the jury in determining whether driver's lookout was proper. *Smith v. Sharp*, 85 Idaho 17, 375 P.2d 184 (1962).

In an action for the wrongful death of a child who fell from the hood of a tractor and was run over by a tractor wheel, plaintiff charging that permitting the child to ride upon the hood of the tractor constituted gross and wanton negligence, an instruction in the language of this section was erroneous in that plaintiff had not charged intentional injury or that defendant was intoxicated, but such error was harmless, as the evidence was such that the jury would not have been misled by the instruction, and the trial court did not abuse its discretion in denying plaintiff's motion for new trial. *Clear v. Marvin*, 86 Idaho 87, 383 P.2d 346 (1963).

In an action for damages for the wrongful death of a guest passenger, an instruction on ordinary negligence given to help the jury understand gross negligence was not error where the instructions as a whole made it clear that recovery must be predicated upon gross negligence. *Mattson v. Bryan*, 92 Idaho 587, 448 P.2d 201 (1968).

The jury in a wrongful death action should not have been instructed on the applicability of the guest statute as it was held unconstitutional by *Thompson v. Hagan*, 96 Idaho 19, 523 P.2d 1365 (1974). *Riksem v. Hollister*, 96 Idaho 15, 523 P.2d 1361 (1974).

Insurance.

The requirements of the Safety Responsibility Act [former §§ 49-1538 to 49-1540] will be read into any policy of liability insurance issued to establish proof of financial responsibility under the act and the policy will be construed to provide the coverage required by the act. *Farmers Ins. Exch. v. Wendler*, 84 Idaho 114, 368 P.2d 933 (1962).

Joint Enterprise.

An instruction which defined a joint enterprise and advised the jury that, in case they found that the driver and the guest were engaged in a joint enterprise, the driver owed decedent the duty of ordinary care was not erroneous as telling the jury it was a joint

enterprise. *McCoy v. Kregel*, 52 Idaho 626, 17 P.2d 547 (1932).

In an action for injuries to occupant of automobile, tried on the theory that occupant was a guest, court's failure to submit issue whether occupant was engaged in joint enterprise is not prejudicial to defendant. *French v. Tebben*, 53 Idaho 701, 27 P.2d 474 (1933).

Joint Liability.

The boy's father who filed his application for a driver's permit was jointly and severally liable with him for his negligence and wilful misconduct in operating a motor vehicle upon the highways and the damage resulting therefrom. *Smith v. Sharp*, 85 Idaho 17, 375 P.2d 184 (1962).

Jury Question.

Evidence in an action for injuries to guests in automobile driven by defendant that defendant did all driving on continuous trip from noon until about 4 o'clock on following morning, except for short periods when gasoline and food were procured, and that automobile left highway and collided with tree without apparent cause, was sufficient to warrant submission to jury of question of defendant's gross negligence or reckless disregard of plaintiff's rights. *Curtis v. Curtis*, 58 Idaho 76, 70 P.2d 369 (1937).

In an action for the death of a guest, who was killed while riding in defendant's automobile, driven by defendant's salesman, who fell asleep and drove into a ditch, the question whether salesman was guilty of gross negligence, or acted with reckless disregard of the rights of the guest, was for the jury. *Manion v. Waybright*, 59 Idaho 643, 86 P.2d 181 (1938).

In an action for the death of a guest, who was killed while riding in defendant's automobile, which was driven by defendant's traveling salesman, the question whether salesman had defendant's permission to allow guests, including deceased, to ride in the automobile, was for the jury. *Manion v. Waybright*, 59 Idaho 643, 86 P.2d 181 (1938).

Whether defendant was guilty of gross negligence towards his guest, riding in the rumble seat, in driving fast over a rough road, is a question for the jury. *Owen v. Taylor*, 62 Idaho 408, 114 P.2d 258 (1941).

In action to recover for death of guest passenger, the question of whether the driving of owner was reckless is for jury. *Hughes v. Hudelson*, 67 Idaho 10, 169 P.2d 712 (1946).

It was within the province of the jury to find whether the benefit or consideration resulting to respondent who had been granted permission to drive his own car by reason of transporting appellant, a fellow officer who had been requested to put on a regimental party, under the circumstances was substantial and of worth to respondent, thusly to constitute payment for transportation within the pur-

view of the guest statute, upon officer having been injured when respondent's car left highway and upset after colliding with post covered with grass while they were en route back to the regimental headquarters from the park where the party had been supervised by appellant at request of his commanding officer. *Buffat v. Schnuckle*, 79 Idaho 314, 316 P.2d 887 (1957).

The conduct of the host driver in going through a barricade erected at the end of a street and on into the river was such as to present a jury question as to his liability to his guest as to whether or not it constituted a reckless disregard of the rights of others as provided in this section. *Smith v. Sharp*, 85 Idaho 17, 375 P.2d 184 (1962).

Whether or not the operator of an automobile was guilty of gross negligence in attempting a U-turn on the highway with another car approaching from about 300 feet to the rear at a speed of fifty to fifty-five miles per hour was a question of fact for the jury. *Hayslip v. George*, 92 Idaho 349, 442 P.2d 759 (1968).

Where host driver proceeding north on four-lane highway, with divider strip, made a U-turn and crossed over southbound inside lane and entered outside lane, where her vehicle was struck from rear, she was guilty of negligence under former § 49-721, in not entering inside lane, and where her left turn indicator indicated that she intended to enter inside lane, it was within the province of the jury to determine whether or not the facts constituted gross negligence. *Loving v. Freeman*, 93 Idaho 426, 462 P.2d 519 (1969).

Passenger Relationship.

In order to create a passenger relationship there must be a mutual understanding between rider and driver that rider is a passenger and not a guest. *Riggs v. Roberts*, 74 Idaho 473, 264 P.2d 698 (1953).

Participants in car pool or share the ride arrangement are passengers where participants take turns in driving their cars. *Riggs v. Roberts*, 74 Idaho 473, 264 P.2d 698 (1953).

Pleading and Proof.

The guest statute requires pleading and proof of fact establishing a reckless disregard of the rights of others. *Wilson v. Bacon*, 78 Idaho 389, 304 P.2d 908 (1956).

The words "heedlessly," "wantonly," "unlawfully," and "in a manner destitute of heed or concern for consequences and in an especially foolish, headlong, rash manner and with indifference to consequences," used as allegations in a complaint, when attacked by special demurrer, are merely matters of decoration and conclusion and to warrant a guest recovering against the host for injury, it would be necessary for such guest to prove more than alleged. *Wilson v. Bacon*, 78 Idaho 389, 304 P.2d 908 (1956).

Where issues between plaintiff and defendant were clearly framed on the guest-host relationship and the case proceeded to trial on this theory, and no motion was made to amend before trial nor until the close of evidence, further the proposed amendment did not cover matters that arose by surprise to plaintiff during the trial, if the proposed amendment had been permitted it would have changed plaintiff's theory against defendant to an action involving negligence. *Grant v. Clarke*, 78 Idaho 412, 305 P.2d 752 (1956).

Presumption of Agency.

The presumption of agency, that arose where it was shown that defendant owned the automobile in which guest was killed and which was being driven by a person in general employment of defendant, was rebuttable and the jury should have been so instructed. *R.J. Reynolds Tobacco Co. v. Newby*, 145 F.2d 768 (9th Cir. 1944).

Reckless Disregard (See Note preceding annotation analysis).

The term "reckless disregard" as used in this statute means "an act destitute of heed or concern for consequences; especially, foolishly heedless of danger, headlong, rash; without thought or care for consequences." *R.J. Reynolds Tobacco Co. v. Newby*, 145 F.2d 768 (9th Cir. 1944).

The term "reckless disregard" as used in this section means an act or conduct destitute of heed or concern for consequences; especially foolishly heedless of danger, headlong or rash, wanton disregard, or conscious indifference to consequences. *Foberg v. Harrison*, 71 Idaho 11, 225 P.2d 69 (1950).

Failure of driver to anticipate dip in road and presence of horses on highway while driving car on a dark night did not constitute "reckless disregard" and indicated only ordinary negligence. *Mason v. Mootz*, 73 Idaho 461, 253 P.2d 240 (1953).

The term "reckless disregard" means an act or conduct destitute of heed or concern for consequences, or conscious indifference to consequences. *Mason v. Mootz*, 73 Idaho 461, 253 P.2d 240 (1953).

The term "reckless disregard" in this section means an act destitute of heed or concern for consequences, that is especially foolishly heedless of danger. *Turner v. Purdum*, 77 Idaho 130, 289 P.2d 608 (1955), overruled on other grounds, *Schaub v. Linehan*, 92 Idaho 332, 442 P.2d 742 (1968).

The term "reckless disregard" as used in this section means an act or conduct destitute of heed or concern for consequences; especially foolishly heedless of danger, headlong, rash; wanton disregard, or conscious indifference to consequences. It implies a consciousness of danger and a willingness to assume the risk, or an indifference to consequences.

Grant v. Clarke, 78 Idaho 412, 305 P.2d 752 (1956).

Rule of Employer Prohibiting Guests.

In wrongful death action where guest was killed while riding in automobile owned by defendant, evidence warranted finding that driver's violation of rule forbidding carrying of passengers was so well known to defendant that the rule thereby was abrogated. *R.J. Reynolds Tobacco Co. v. Newby*, 145 F.2d 768 (9th Cir. 1944); *Manion v. Waybright*, 59 Idaho 643, 86 P.2d 181 (1938).

Scope of Employment.

In action for wrongful death arising out of an automobile accident where the evidence disclosed that deceased was riding as guest in

an automobile owned by defendant, carrying defendant's merchandise, that accident occurred during business hours and in section where defendant's business was usually carried on, warranted finding that the driver of defendant's automobile was acting in the course of employment. *R.J. Reynolds Tobacco Co. v. Newby*, 145 F.2d 768 (9th Cir. 1944).

In an action for the death of a guest, who was killed while riding in defendant's automobile, which was driven by defendant's traveling salesman, the question whether, at the time of the accident, the automobile was being used, in whole or in part, in defendant's service, or for the advancement of his business, was for the jury. *Manion v. Waybright*, 59 Idaho 643, 86 P.2d 181 (1938).

RESEARCH REFERENCES

A.L.R. — Liability, under guest statutes, of driver or owner of motor vehicle for running over or hitting person attempting to enter vehicle. 1 A.L.R.3d 1083.

Burden of pleading and proving guest status, or absence thereof, under automobile guest statute. 24 A.L.R.3d 1400.

Right of third person to recover contribution from host-driver for injuries or death of guest, where host is not liable to guest under guest statute. 26 A.L.R.3d 1283.

Nonmonetary benefits or contributions by rider as affecting his status under automobile guest statute. 39 A.L.R.3d 1083.

Status of rider as affected by payment, amount of which is not determined by ex-

penses incurred. 39 A.L.R.3d 1177.

Payments on expense-sharing basis as affecting guest status of automobile passenger. 39 A.L.R.3d 1224.

Anti-hitchhiking statutes: Their construction and effect in action for injury to hitchhiker. 46 A.L.R.3d 964.

Constitutionality of automobile and aviation guest statutes. 66 A.L.R.3d 532.

Infant as guest within automobile guest statute. 66 A.L.R.3d 601.

What constitutes "use" or "operation" within statute making owner of motor vehicle liable for negligence in its use or operation. 103 A.L.R.5th 339.

49-2416. Owner liable for negligence of minor under sixteen. — Every owner of a motor vehicle causing or knowingly permitting a minor under the age of sixteen (16) years to drive the vehicle upon a highway, and any person who gives or furnishes a motor vehicle to a minor under the age of sixteen (16) years, shall be jointly and severally liable with the minor for any damage caused by the negligence of the minor in driving the vehicle. [1929, ch. 274, § 1, p. 636; I.C.A., § 48-903; am. and redesign. 1988, ch. 265, § 480, p. 549; am. 1999, ch. 144, § 1, p. 414.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1403 and was amended and redesignated by § 480 of S.L. 1988, ch. 265 to become this section.

Former § 49-2416 was amended and redesignated as § 49-1615 by § 388 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Application.
Doctrines of respondeat superior.
Family purpose doctrine.

Imputed contributory negligence.

Instructions.

Jury question.

Owner's liability for minor driver.

Standard of care.

Whether consent given.

Application.

This section did not apply to accident where defendant's son aged 18 was driving a car. *Litalien v. Tuthill*, 75 Idaho 335, 272 P.2d 311 (1954).

Doctrine of Respondeat Superior.

An automobile owner, permitting his minor child, over sixteen years of age, to drive his car, is not liable in damages under this section, and his liability, if any, must rest upon the doctrine of respondeat superior. *Gordon v. Rose*, 54 Idaho 502, 33 P.2d 351 (1934).

Family Purpose Doctrine.

Amended complaint in an action for death of a boy run over by defendant's automobile, driven by defendant's minor daughter, alleged cause of action based on family purpose doctrine, thereby destroying general allegations of the driver's agency for defendant owner. *Gordon v. Rose*, 54 Idaho 502, 33 P.2d 351 (1934).

Imputed Contributory Negligence.

Where parents seek to recover from a third person damages sustained by them, if the facts were such that their minor child could not recover for his injuries because of his contributory negligence in the operation of a motor scooter which they permitted him to possess and operate, their parental control and responsibility were sufficient to impute to them the negligence of the boy and bar their recovery. *Gayhart v. Schwabe*, 80 Idaho 354, 330 P.2d 327 (1958).

Instructions.

An instruction that the jury could not infer consent to drive an automobile from previous permission was erroneous and prejudicial, demanding reversal and new trial. *Abbs v. Redmond*, 64 Idaho 369, 132 P.2d 1044 (1943).

Jury Question.

Whether consent had been given within meaning of the statute so as to impose liability was jury question. *Abbs v. Redmond*, 64 Idaho 369, 132 P.2d 1044 (1943).

Owner's Liability for Minor Driver.

Owner of a car is jointly and severally liable for an auto accident, if he allows a minor to drive his car; hence action may be filed against either or both. *Wilde v. Hansen*, 70 Idaho 8, 211 P.2d 153 (1949).

Where plaintiff filed suit for damages against owner of a car for alleged negligence of minor driver, the complaint was held sufficient as against contention by defendant that complaint did not state a good cause of action, because driver of the car had not been made a party defendant, since owner of a car is jointly and severally liable where he permits minor to drive his car. *Wilde v. Hansen*, 70 Idaho 8, 211 P.2d 153 (1949).

Standard of Care.

When a child is operating a motor vehicle upon a public highway, the child is held to an adult standard of care. *Goodfellow v. Cogburn*, 98 Idaho 202, 560 P.2d 873 (1977).

Whether Consent Given.

In an action arising out of a collision with an automobile driven by the owner's fourteen-year-old son, evidence that, on the day of the accident, the son had been given permission to take the automobile during the day, and that night he took it without saying anything to his parents, raised a question of fact as to whether or not the consent of the owner had been given within the meaning of this section, and an instruction that the jury could not infer consent from previous permission was erroneous. *Abbs v. Redmond*, 64 Idaho 369, 132 P.2d 1044 (1943).

49-2417. Owner's tort liability for negligence of another — Subrogation. — (1) Every owner of a motor vehicle is liable and responsible for the death of or injury to a person or property resulting from negligence in the operation of his motor vehicle, in the business of the owner or otherwise, by any person using or operating the vehicle with the permission, expressed or implied, of the owner, and the negligence of the person shall be imputed to the owner for all purposes of civil damages.

(2) The liability of an owner for imputed negligence imposed by the provisions of this section and not arising through the relationship of principal and agent or master and servant is limited to the amounts set

forth under "proof of financial responsibility" in section 49-117, Idaho Code, or the limits of the liability insurance maintained by the owner, whichever is greater.

(3) In any action against an owner for imputed negligence as imposed by the provisions of this section the operator of the vehicle whose negligence is imputed to the owner shall be made a defendant party if personal service of process can be had upon that operator within Idaho. Upon recovery of a judgment, recourse shall first be had against the property of the operator so served.

(4) In the event a recovery is had under the provisions of this section against an owner for imputed negligence the owner is subrogated to all the rights of the person injured and may recover from the operator the total amount of any judgment and costs recovered against the owner. If the bailee of an owner with the permission, expressed or implied, of the owner, permits another to operate the motor vehicle of the owner, then the bailee and the driver shall both be deemed operators of the vehicle of the owner, within the meaning of subsections (3) and (4) of this section.

(5) Where two (2) or more persons are injured or killed in one (1) accident, the owner may settle or pay any bona fide claim for damages arising out of personal injuries or death, whether reduced to a judgment or not, and the payments shall diminish to the extent of the owners' total liability on account of the accident. Payments so made, aggregating the full sum of fifty thousand dollars (\$50,000), shall extinguish all liability of the owner hereunder to the claimants and all other persons on account of the accident. Liability may exist by reason of imputed negligence, pursuant to this section, and not arising through the negligence of the owner nor through the relationship of principal and agent nor master and servant.

(6) If a motor vehicle is sold under a contract of conditional sale whereby the title to the motor vehicle remains in the vendor, the vendor or his assignee shall be deemed an owner within the provisions of this section.

(7) An owner that rents or leases a motor vehicle to a person shall not be liable under the laws of the state of Idaho or a political subdivision thereof, by reason of being the owner of the vehicle, for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease if:

(a) The owner is engaged in the trade or business of renting or leasing motor vehicles; and

(b) There is no negligence or criminal wrongdoing on the part of the owner. [I.C.A., § 48-904, as added by 1947, ch. 91, § 1, p. 158; am. 1969, ch. 312, § 1, p. 967; am. 1985, ch. 232, § 1, p. 552; am. 1986, ch. 96, § 1, p. 274; am. and redesign. 1988, ch. 265, § 481, p. 549; am. 2007, ch. 307, § 2, p. 859.]

STATUTORY NOTES

Amendments. — The 2007 amendment, by ch. 307, in subsection (2), added "or the limits of the liability insurance maintained by

the owner, whichever is greater"; and added subsection (7).

Compiler's Notes. — This section was

formerly compiled as § 49-1404 and was amended and redesignated by § 481 of S.L. 1988, ch. 265 to become this section.

Former § 49-2417 was amended and redesignated as § 49-1616 by § 389 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Agency.
Award in excess of limits.
Damages.
Estoppel.
Imputed liability.
Ownership of car.
Permittee as driver.
Purpose.
Right to bring action.
Sub-permittee.
Subrogation of insurer.
Use with permission.

Agency.

Plaintiffs in a collision case were not prejudiced by the failure of the court to submit to the jury the issue of agency in view of the jury's verdict being in favor of the defendant driver. *Howard v. Missman*, 81 Idaho 82, 337 P.2d 592 (1959).

Award in Excess of Limits.

Where the only issue determined at trial had been negligence imputed to defendant, it was necessary to remand for a jury determination of defendant's independent negligence before defendant could be held liable in an amount greater than the limits of this section. *Kinney v. Smith*, 95 Idaho 328, 508 P.2d 1234 (1973).

Damages.

Where a wife brought an action against her husband seeking damages for personal injuries arising out of a one-car accident, the wife was entitled to recover special damages as actual out of pocket expenses which were a community liability, general damages for loss of future earnings recoverable only in the fraction of one half as the separate property of the injured spouse, and general damages for pain and suffering fully recoverable as the injured spouse's separate property. *Rogers v. Yellowstone Park Co.*, 97 Idaho 14, 539 P.2d 566 (1975).

Estoppel.

For the theory that the finding and judgment of the state court constituted an estoppel to arise, there would have to be a previous opportunity for litigation of the question or an actual previous participation in the litigation by the party against whom the estoppel is asserted or his privy, and as in the state court action appellants were not in an adversary position to the party in whose favor the judgment ran and there were no pleadings be-

tween appellants and such parties, hence the issue of permissive use either within the meaning of this section or the insurance policy involved had not yet been litigated upon by appellants or their privies against anyone and they had not had their day in court, therefore there is no estoppel precluding the insurer of the construction company from maintaining an action against the insurer of the truck owner. *C.H. Elle Constr. Co. v. Western Cas. & Sur. Co.*, 261 F.2d 533 (9th Cir. 1958).

Imputed Liability.

Where driver's parents in negligence action were not alleged to have been directly involved in accident or to be separately liable to plaintiff upon any independent theory of negligence, parents' liability to plaintiff would be that imputed under this section, which is limited as provided in § 49-117. *Warren v. Furniss*, 124 Idaho 554, 861 P.2d 1219 (Ct. App. 1993).

Ownership of Car.

Verdict of jury in favor of defendant would not be disturbed where there was conflicting evidence as to whether car was owned by defendant or defendant's son aged 18. *Litalien v. Tuthill*, 75 Idaho 335, 272 P.2d 311 (1954).

Although the father paid for the vehicle (using the son's money), he did not possess any right of possession or control over the vehicle and he was not liable for the injuries caused by the son's driving the vehicle, under the theory of negligent entrustment. *Lopez v. Langer*, 114 Idaho 873, 761 P.2d 1225 (1988).

More than mere legal title is necessary to impose tort liability for the negligent operation of a vehicle "owned" by another. *Lopez v. Langer*, 114 Idaho 873, 761 P.2d 1225 (1988).

Permittee as Driver.

Subsection (1) imputes a driver's negligence to the owner of an automobile only when a

person using or operating the same with the permission, expressed or implied, of such owner is driving. *Colborn v. Freeman*, 98 Idaho 427, 566 P.2d 376 (1977).

Purpose.

Purpose of legislature in requiring operator of car to be made a party defendant, where owner of car is sued on ground of imputed negligence of operator, is to satisfy judgment first against property of operator. *Wilde v. Hansen*, 70 Idaho 8, 211 P.2d 153 (1949).

The purpose of this section is to hold an owner responsible for the damages done by his vehicle when it is operated by another person with his permission. *Colborn v. Freeman*, 98 Idaho 427, 566 P.2d 376 (1977).

Right to Bring Action.

A wife who was injured in an accident involving a company car operated by her husband was entitled to pursue her cause of action for negligent personal injury against the husband and to recover damages as separate property. *Rogers v. Yellowstone Park Co.*, 97 Idaho 14, 539 P.2d 566 (1975).

Sub-permittee.

Defendants were entitled to summary judgment where no reasonable inference could be drawn that implied permission existed from the defendants, owner of car that injured plaintiff, to allow operation of the vehicle by driver since a mere showing that an owner has granted unrestricted authority to one permittee will not establish a chain of liability for every subsequent sub-permittee. *Jennings v. Edmo*, 115 Idaho 391, 766 P.2d 1272 (Ct. App. 1988).

Subrogation of Insurer.

An insurer who pays a judgment recovered against the insured owner for damages resulting from the negligence of an additional insured operator is not subrogated to the rights of the judgment creditor against such additional insured. *Pendlebury v. Western Cas. & Sur. Co.*, 89 Idaho 456, 406 P.2d 129 (1965).

Use with Permission.

Where plaintiff's complaint and affidavits on file showed that a pickup truck was being driven by the defendant-owner's employee at the time of the collision in question, plaintiff was entitled to have the jury decide the issue as to whether the employee was operating the truck with the owner's permission and it was error to render a summary judgment for such owner-defendant. *Steele v. Nagel*, 89 Idaho 522, 406 P.2d 805 (1965).

Where son was driving father's truck, the inference could be made that he had the father's consent. *Eckels v. Johnson*, 96 Idaho 264, 526 P.2d 1100 (1974).

Where an automobile dealership sold an automobile to the defendant and, upon discovering fraud in the transaction, notified the police and attempted to recover the car, the defendant was not operating the car with the dealer's permission and the dealership was not liable for injuries caused by the defendant. *Colborn v. Freeman*, 98 Idaho 427, 566 P.2d 376 (1977).

Cited in: *Gamble v. Kinch*, 102 Idaho 335, 629 P.2d 1168 (1981); *Slade v. Smith's Mgt. Corp.*, 119 Idaho 482, 808 P.2d 401 (1991).

RESEARCH REFERENCES

A.L.R. — Who is "owner" within statute making owner responsible for injury or death

inflicted by operator of automobile. 74 A.L.R.3d 739.

49-2418, 49-2419. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-2418 and 49-2419 were amended and redesignated

as §§ 49-1618 and 49-1619 by §§ 391 and 392 of S.L. 1988, ch. 265.

49-2420. Grant of privilege of using highways. — Subject to compliance with the motor vehicle laws of Idaho, nonresident owners, operators of, and persons riding in motor vehicles hereby are granted the privilege of using the highways of Idaho. [1933, ch. 34, § 1, p. 45; am. 1935, ch. 72, § 1, p. 126; am. 1937, ch. 34, § 1, p. 44; am. and redesig. 1988, ch. 265, § 482, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1601 and was amended and redesignated by § 482 of S.L. 1988, ch. 265 to become this section. Former § 49-2420 was amended and redesignated as § 49-1620 by § 393 of S.L. 1988, ch. 265.

49-2421. Service of process on resident and nonresident motor vehicle operators. — The operation by any person, either as principal, master, agent, servant or otherwise, of any motor vehicle, whether registered or unregistered, and with or without a license to operate, on any highway in this state, shall be deemed equivalent to an appointment by that person of the secretary of state to be his true and lawful attorney, upon whom may be served all lawful summons and processes in any action or proceeding against him, growing out of any accident or collision in which he, either as principal, master, agent, servant, or otherwise, may be involved while operating, causing or permitting the operation of a motor vehicle upon a highway. The operation shall be signification of an agreement by the person that any summons or process against him which is so served shall be of the same legal force and validity as if served on him personally within Idaho. Service of the processes shall be made by leaving a copy of the process, with a fee of five dollars (\$5.00), in the hands of the secretary of state or in his office. The service shall be a sufficient and valid personal service upon that person; provided, notice of the service and a copy of the process is sent by registered mail by the plaintiff to the defendant, and the defendant's return receipt and plaintiff's affidavit of compliance are appended to the process and entered as a part of the return. Personal service outside of the state in accordance with the provisions of the laws of Idaho relating to personal service of summons outside of the state shall relieve a plaintiff from mailing copies of the summons or process by registered mail as provided in this section. Service of the process upon a defendant shall not be complete until it is either made by registered mail or by personal service outside of the state. The court in which the action is brought may order continuances as may be necessary to afford the defendant reasonable opportunity to defend the action. [1933, ch. 34, § 2, p. 45; am. 1935, ch. 72, § 1, p. 126; am. 1937, ch. 34, § 1, p. 44; am. 1957, ch. 202, § 1, p. 418; am. and redesisg. 1988, ch. 265, § 483, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1602 and was amended and redesignated by § 483 of S.L. 1988, ch. 265 to become this section. Former § 49-2421 was amended and redesignated as § 49-1621 by § 394 of S.L. 1988, ch. 265.

JUDICIAL DECISIONS

ANALYSIS

Construction with other law.
Excusable neglect.

Construction with other law.

Section 5-514 and this section do not impliedly repeal § 5-229. *Tetzlaff v. Brooks*, 130 Idaho 903, 950 P.2d 1242 (1997).

Excusable Neglect.

Neglect of appellant to appear within prescribed time constituted excusable neglect under the provisions of former law authoriz-

ing relief where appellant with reasonable promptitude forwarded summons and complaint served by substituted service to his insurance carrier who in turn acted without delay though under wrong impression as to time service was completed and where appellant acted promptly on learning of the default in moving to set the same aside. *Johnson v. McIntyre*, 80 Idaho 135, 326 P.2d 989 (1958).

49-2422. Service fee taxed as costs. — The fee of five dollars (\$5.00) paid by the plaintiff to the secretary of state and the service shall be taxed in his costs if he prevails in the action. [1933, ch. 34, § 3, p. 45; am. 1935, ch. 72, § 1, p. 126; am. 1937, ch. 34, § 1, p. 44; am. and redesisg. 1988, ch. 265, § 484, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-2422, which comprised I.C., § 49-2422 as added by 1985, ch. 117, § 24, p. 242, was repealed by S.L. 1988, ch. 265, § 466, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § 49-1603 and was amended and redesignated by § 484 of S.L. 1988, ch. 265 to become this section.

49-2423. Record of process kept by secretary of state. — The secretary of state shall keep a record of all processes, which shall show the day and hour of service. [1933, ch. 34, § 4, p. 45; am. 1935, ch. 72, § 1, p. 126; am. 1937, ch. 34, § 1, p. 44; am. and redesisg. 1988, ch. 265, § 485, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1604 and was amended and redesignated by § 485 of S.L. 1988, ch. 265 to become this section.

Former § 49-2423 was amended and redesignated as § 49-1622 by § 395 of S.L. 1988, ch. 265.

49-2424, 49-2425. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-2424 and 49-2425 were amended and redesignated

as §§ 49-1623 and 49-1624 by §§ 396 and 397 of S.L. 1988, ch. 265.

49-2426. Marking of vehicles — Certain vehicles excepted. — (1) Every motor vehicle owned by or under control and custody of the state of Idaho, except as provided in subsections (2) and (3) of this section, or in section 49-2427, Idaho Code, shall be indelibly and conspicuously lettered on each side, in plain letters not less than one and one-half (1 1/2) inches high, with the words "State of Idaho" or "Idaho" with the name of the proper department, as defined in section 67-2402, Idaho Code, in each case inserted following either of these words. The words shall be kept clear, distinct and visible at all times. The provisions of this section shall not be applicable to any motor vehicle in the personal service of the governor, except that upon

the front doors of any motor vehicle in his personal service there shall be placed the Great Seal of the state of Idaho.

(2) Motor vehicles under the custody and control of the director of the Idaho state police and used for confidential investigative purposes when necessary to enforce the laws of this state or motor vehicles under the custody and control of the director of the department of health and welfare and used for official state business need not be marked as provided in subsection (1) of this section. Any other department, agency, or entity of the state shall apply in writing to the director for permission to use one (1) or more unmarked vehicles for confidential investigative purposes. Permission shall be granted only in writing and upon a finding of good cause.

(3) Motor vehicles under the custody and control of the director of the Idaho department of juvenile corrections, when used for official state business and to enforce laws of the juvenile corrections system, including investigation of juveniles under its purview, need not be marked as provided in subsection (1) of this section. [1931, ch. 32, § 1, p. 61; I.C.A., § 48-1001; am. 1979, ch. 70, § 1, p. 176; am. and redesign. 1988, ch. 265, § 486, p. 549; am. 1996, ch. 240, § 1, p. 770; am. 2000, ch. 469, § 122, p. 1450; am. 2002, ch. 29, § 1, p. 36.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1701 and was amended and redesignated by § 486 of S.L. 1988, ch. 265 to become this section.

Former § 49-2426 was amended and redesignated as § 49-1625 by § 398 of S.L. 1988, ch. 265.

49-2427. Identification of state police vehicles used for highway patrol. — Every motor vehicle other than motorcycles, owned by the state of Idaho and used as a state police highway patrol vehicle shall be marked as provided by section 49-2426, Idaho Code, and shall in addition, be painted with a black body with a white top and shall be identified in one (1) of the following manners:

(1) By having a white stripe, at least six (6) inches in width, painted completely around the vehicle;

(2) By having a blue light mounted on the top of the vehicle which must be visible from any direction; or

(3) By having two (2) white stripes at least one and one-half (1 1/2) inches in width painted from the center point of the hood across the hood on each side and extending diagonally down to the bottom of the doors on each side of the vehicle. No other state agency, person, or local unit of government shall have any vehicle which is painted with a stripe or stripes from the center point of the hood across the hood on each side and extending diagonally down to the bottom of the doors on each side of the vehicles. [I.C., § 49-1701A, as added by 1969, ch. 327, § 1, p. 1033; am. 1970, ch. 220, § 1, p. 619; am. 1976, ch. 56, § 1, p. 195; am. 1979, ch. 70, § 2, p. 176; am. and redesign. 1988, ch. 265, § 487, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-1701A and was amended and redesignated by § 487 of S.L. 1988, ch. 265 to become this section.

Former § 49-2427 was amended and redesignated as § 49-1626 by § 399 of S.L. 1988, ch. 265.

49-2428 — 49-2430. [Reserved.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-2428 — 49-2430 were amended and redesignated

as §§ 49-1627 and 49-1629 by §§ 400 and 402 of S.L. 1988, ch. 265.

49-2431. Ridesharing exempt from motor carrier laws. — The following laws and regulations shall not apply to any ridesharing arrangement using a motor vehicle with a seating capacity for not more than fifteen (15) persons, including the driver:

(1) Title 49, Idaho Code, pertaining to the regulation of motor carriers of any kind or description;

(2) Laws and regulations containing insurance requirements that are specifically applicable to motor carriers or commercial vehicles;

(3) Laws imposing a greater standard of care on motor carriers or commercial vehicles than that imposed on other drivers or owners of motor vehicles;

(4) Laws and regulations with equipment requirements and special accident reporting requirements that are specifically applicable to motor carriers or commercial vehicles; and

(5) Laws imposing a tax on fuel purchased in another state by a motor carrier or highway use fees on commercial buses. [I.C., § 49-3203, as added by 1980, ch. 371, § 1, p. 953; am. and redesign. 1988, ch. 265, § 488, p. 549; am. 1999, ch. 383, § 11, p. 1051.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3303] 49-3203 and was amended and redesignated by § 488 of S.L. 1988, ch. 265 to become this section.

Former § 49-2431 was amended and redesignated as subsection (2)(b) of § 49-1629 by § 402 of S.L. 1988, ch. 265.

49-2432. Ridesharing exempt from workmen's compensation law. — Title 72, Idaho Code, providing compensation for workers injured during the course of their employment, shall not apply to a person injured while participating in a ridesharing arrangement between his place of residence and place of employment or termini near those places, provided that if the employer owns, leases or contracts for the motor vehicle used in the arrangement, the provisions of title 72, Idaho Code, shall apply. [I.C., § 49-3204, as added by 1980, ch. 371, § 1, p. 953; am. and redesign. 1988, ch. 265, § 489, p. 549.]

STATUTORY NOTES

Prior Laws. — Former § 49-2432, which comprised I.C., § 49-2432, as added by 1985, ch. 117, § 34, p. 242, was repealed by S.L. 1988, ch. 265, § 466, effective January 1, 1989.

Compiler's Notes. — This section was formerly compiled as § [49-3304] 49-3204 and was amended and redesignated by § 489 of S.L. 1988, ch. 265 to become this section.

49-2433. No liability of employer. — (1) An employer shall not be liable for injuries to passengers and other persons resulting from the operation or use of a motor vehicle, not owned, leased or contracted for by the employer, in a ridesharing arrangement.

(2) An employer shall not be liable for injuries to passengers and other persons because he provides information, incentives or otherwise encourages his employees to participate in ridesharing arrangements. [I.C., § 49-3205, as added by 1980, ch. 371, § 1, p. 953; am. and redesign. 1988, ch. 265, § 490, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3305] 49-3205 and was amended and redesignated by § 490 of S.L. 1988, ch. 265 to become this section.

Former § 49-2433 was amended and redesignated as subsection (2)(c) of § 49-1629 by § 402 of S.L. 1988, ch. 265.

49-2434. Insurance availability — Rates — Policy exclusions. —

(1) Insurers shall not increase any premium, cancel any policy, nor refuse to insure a vehicle solely because it is used in a ridesharing arrangement.

(2) Provisions in an insurance policy which deny coverage for any motor vehicle used for commercial purposes or as a public or livery conveyance shall not apply to a vehicle used in a ridesharing arrangement. [I.C., § 49-3206, as added by 1980, ch. 371, § 1, p. 953; am. and redesign. 1988, ch. 265, § 491, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3306] 49-3206 and was amended and redesignated by § 491 of S.L. 1988, ch. 265 to become this section.

Former § 49-2434 was amended and redesignated as § 49-1630 by § 403 of S.L. 1988, ch. 265.

49-2435. Ridesharing arrangements are nonprofit. — Ridesharing arrangements using a motor vehicle with a seating capacity for not more than fifteen (15) persons, including the driver, shall be deemed nonprofit even though the driver, owner or lessee receives compensation for operating and maintaining the vehicle and a reasonable amount of compensation for the driver's services. No household shall operate more than one (1) vehicle with a capacity of seven (7) to fifteen (15) persons in a ridesharing arrangement at one (1) time. [I.C., § 49-3207, as added by 1980, ch. 371, § 1, p. 953; am. and redesign. 1988, ch. 265, § 492, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3307] 49-3207 and was amended and redesignated by § 492 of S.L. 1988, ch. 265 to become this section.

Former § 49-2435 was amended and redesignated as § 49-1631 by § 404 of S.L. 1988, ch. 265.

49-2436. Sales tax not applicable. — Laws imposing a tax on the sale of goods and services shall not apply to money received by a driver as part of a ridesharing arrangement. [I.C., § 49-3208, as added by 1980, ch. 371, § 1, p. 953; am. and redesignig. 1988, ch. 265, § 493, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3308] 49-3208 and was amended and redesignated by § 493 of S.L. 1988, ch. 265 to become this section.

Former § 49-2436 was amended and redesignated as § 49-1628 by § 401 of S.L. 1988, ch. 265.

49-2437. Municipal licenses — Tax. — No county, city, or other municipal corporation may impose a tax on, or require a municipal license for a ridesharing arrangement. [I.C., § 49-3209, as added by 1980, ch. 371, § 1, p. 953; am. and redesignig. 1988, ch. 265, § 494, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3309] 49-3209 and was amended and redesignated by § 494 of S.L. 1988, ch. 265 to become this section.

Former § 49-2437 was amended and redesignated as § 49-1632 by § 405 of S.L. 1988, ch. 265.

49-2438. Overtime compensation — Minimum wage laws. — The mere fact that an employee participates in any kind of ridesharing arrangement shall not result in the application of chapter 15, title 44, Idaho Code, laws requiring payment of a minimum wage, overtime pay or otherwise regulating the hours a person may work. [I.C., § 49-3210, as added by 1980, ch. 371, § 1, p. 953; am. and redesignig. 1988, ch. 265, § 495, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3310] 49-3210 and was amended and redesignated by § 495 of S.L. 1988, ch. 265 to become this section.

Former § 49-2438 was amended and redesignated as § 49-243 by § 33 of S.L. 1988, ch. 265.

49-2439. Use of public motor vehicles. — Motor vehicles owned or operated by any state or local agency may be used in ridesharing arrangements. Participants in any such ridesharing arrangement shall pay the actual total costs of using the vehicle in that arrangement. [I.C., § 49-3211, as added by 1980, ch. 371, § 1, p. 953; am. and redesignig. 1988, ch. 265, § 496, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § [49-3311] 49-3211 and was amended and redesignated by § 496 of S.L. 1988, ch. 265 to become this section.

Former § 49-2439 was amended and redesignated as § 49-1633 by § 406 of S.L. 1988, ch. 265.

49-2440, 49-2441. [Reserved.]

49-2442. Identification cards authorized. — Any Idaho resident may apply to the department for an identification card. It is prima facie evidence of age when the authorized holder of an identification card exhibits a card which contains information indicating that the person has attained a certain age. [I.C., § 49-3001, as added by 1976, ch. 15, § 1, p. 44; am. 1982, ch. 95, § 125, p. 185; am. and redesign. 1988, ch. 265, § 497, p. 549; am. 1990, ch. 45, § 38, p. 71.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3001 and was amended and redesignated by § 497 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on and after July 1, 1990, with

the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

49-2443. Application. — Application for an identification card must be made in person before an examiner authorized by the department to issue driver's licenses. The examiner shall obtain the following from the applicant:

(1) The true and full name and Idaho residence address and mailing address, if different, of the applicant;

(2) The identity and date of birth of the applicant as set forth in a certified copy of his birth certificate and, subject to subsection (6) of this section, other satisfactory evidence of identity acceptable to the examiner or the department;

(3) The height and weight of the applicant;

(4) The color of eyes and hair of the applicant;

(5) Applicant's signature; and

(6) The applicant's social security number as verified by the social security administration.

(a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.

(b) An applicant who has not been assigned a social security number shall:

(i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and

(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States. [I.C., § 49-3002, as added by 1976, ch. 15, § 1, p. 44; am. 1982, ch. 95, § 126, p. 185; am. and redesisg. 1988, ch. 265, § 498, p. 549; am. 1989, ch. 88, § 57, p. 151; am. 1990, ch. 45, § 39, p. 71; am. 1992, ch. 115, § 36, p. 345; am. 1992, ch. 118, § 2, p. 391; am. 1993, ch. 304, § 2, p. 1126; am. 1997, ch. 237, § 1, p. 688; am. 1998, ch. 110, § 31, p. 375; am. 1998, ch. 248, § 3, p. 809; am. 1999, ch. 319, § 2, p. 811; am. 2008, ch. 63, § 4, p. 163.]

STATUTORY NOTES

Amendments. — This section was amended by two 1998 acts — ch. 110, § 31, and ch. 248, § 3, each effective July 1, 1998, which do not conflict and have been compiled together.

The 1998 amendment, by ch. 110, § 31, deleted “and place” following “The identity and date” in subdivision (2).

The 1998 amendment, by ch. 248, § 3, added a subdivision (6) and redesignated a former subdivision (6) as subdivision (7).

The 2008 amendment, by ch. 63, in the introductory paragraph in subsection (6), deleted “applicant’s social security card or by the” preceding “social security administration”; and in subsection (6)(a), deleted “his social security card or by” preceding “the social security administration.”

Compiler’s Notes. — This section was

formerly compiled as § 49-3002 and was amended and redesignated by § 498 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 70 of S.L. 1989, ch. 88, as amended by § 1 of S.L. 1990, ch. 45, provided that the act would become effective July 1, 1990.

Section 47 of S.L. 1990, ch. 45 provided: “This act shall be in full force and effect on and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver’s licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect.”

Section 3 of S.L. 1999, ch. 319 declared an emergency. Approved March 18, 1999.

49-2444. Identification card issued — Four-year or eight-year. —

(1) The department shall issue a distinguishing identification card which shall set forth the information contained in the application, in a form as prescribed by the department. All identification cards issued on or after January 1, 1993, shall not contain the applicant’s social security number. An applicant’s social security number shall be exempt from disclosure except for inquiries from agencies or institutions authorized to obtain such information by federal law or regulation, from peace officers or from jury commissioners. Each card shall have printed on it the applicant’s full name, date of birth, Idaho residence address, sex, weight, height, eye color, hair color, and shall be issued a distinguishing number assigned to the applicant. Each card shall also have printed on it the name of this state, the date of issuance, and the date of expiration. An identification card shall not be valid until it has been signed on the signature line by the applicant. Each card shall bear upon it a color photograph of the applicant which shall be taken by the examiner at the time of application. The photograph shall be taken without headgear or other clothing or device that disguises or otherwise conceals the face or head of the applicant. A waiver may be granted by the department allowing the applicant to wear headgear or other head covering for medical, religious or safety purposes so long as the face is not disguised or otherwise concealed. At the request of the applicant, an identification card may contain a statement or indication of the medical condition of the applicant.

No person shall receive an identification card unless and until he surrenders to the department all identification cards in his possession issued to him by Idaho or any other jurisdiction, or any driver's license issued by any other jurisdiction within the United States, or until he executes an affidavit that he does not possess an identification card or any driver's license.

Identification cards issued to persons under eighteen (18) years of age shall include a notation "under 18 until (month, day, year)," and identification cards issued to persons eighteen (18) years of age to twenty-one (21) years of age shall include a notation "under 21 until (month, day, year)." The nonrefundable fee for a four-year identification card issued to persons twenty-one (21) years of age or older shall be seven dollars and fifty cents (\$7.50) of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and two dollars and fifty cents (\$2.50) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for identification cards issued to persons under twenty-one (21) years of age shall be six dollars and fifty cents (\$6.50), of which five dollars (\$5.00) shall be retained by the county and credited to the current expense fund, and one dollar and fifty cents (\$1.50) shall be deposited in the state treasury to the credit of the highway distribution account. The nonrefundable fee for an eight-year identification card shall be fifteen dollars (\$15.00) of which ten dollars (\$10.00) shall be retained by the county and credited to the current expense fund, and five dollars (\$5.00) shall be deposited in the state treasury to the credit of the highway distribution account. At the option of the applicant, the identification card issued to a person twenty-one (21) years of age or older shall expire either on the cardholder's birthday in the fourth year or the eighth year following issuance of the card, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person under eighteen (18) years of age shall expire five (5) days after the person's eighteenth birthday, except as otherwise provided in subsection (3) of this section. Every identification card issued to a person eighteen (18) years of age but under twenty-one (21) years of age shall expire five (5) days after the person's twenty-first birthday, except as otherwise provided in subsection (3) of this section.

Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for an identification card. Any registration information so supplied shall be transmitted by the department to the selective service system.

(2) Every identification card, except those issued to persons under twenty-one (21) years of age, shall be renewable on or before its expiration, but not more than twelve (12) months before, and upon application and payment of the required fee.

(3) Every identification card issued to a person who is not a citizen or permanent legal resident of the United States shall have an expiration date that is the same date as the end of lawful stay in the United States as

indicated on documents issued and verified by the department of homeland security, provided however, that the expiration date shall not extend beyond the expiration date for the same category of identification card issued to citizens. Persons whose department of homeland security documents do not state an expiration date shall be issued an identification card with an expiration date of one (1) year from the date of issuance.

(4) When an identification card has been expired for less than twelve (12) months, the renewal of the identification card shall start from the original date of expiration regardless of the year in which the application for renewal is made. If the identification card is expired for more than twelve (12) months, the application shall expire, at the option of the applicant, on the applicant's birthday in the fourth year or the eighth year following reissuance of the identification card, except as otherwise provided in subsection (3) of this section.

(5) A person possessing an identification card who desires to donate any or all organs or tissue in the event of death, and who has completed a document of gift pursuant to the provisions for donation of anatomical gifts as set forth in chapter 34, title 39, Idaho Code, may, at the option of the donor, indicate this desire on the identification card by the imprinting of the word "donor" on the identification card. The provisions of this subsection shall apply to persons possessing an identification card who are sixteen (16) years of age or older but less than eighteen (18) years of age if the requirements provided in chapter 34, title 39, Idaho Code, have been complied with.

(6) A person possessing an identification card or an applicant for an identification card who is a person with a permanent disability may request that the notation "permanently disabled" be imprinted on the identification card, provided the person presents written certification from a licensed physician verifying that the person's stated impairment qualifies as a permanent disability according to the provisions of section 49-117, Idaho Code.

(7) In the case of a name change, the applicant shall provide legal documentation to verify the change in accordance with department rules.

(8) Whenever any person, after applying for or receiving an identification card, shall move from the address shown on the application or on the identification card issued, that person shall, within thirty (30) days, notify the transportation department in writing of the old and new addresses.

(9) The department shall cancel any identification card upon determining that the person was not entitled to the issuance of the identification card, or that the person failed to give the required and correct information in his application or committed fraud in making the application. Upon cancellation, the person shall surrender the canceled identification card to the department.

(10) If any person shall fail to return to the department the identification card as required, the department may direct any peace officer to secure its possession and return the identification card to the department.

(11) The department may issue a no-fee identification card to an individual whose driver's license has been canceled and voluntarily surrendered as

provided in section 49-322(4), Idaho Code. The identification card may be renewed at no cost to the applicant as long as the driver's license remains canceled.

(12) It is an infraction for any person to fail to notify the department of a change of address as required by the provisions of subsection (8) of this section. [I.C., § 49-3003, as added by 1976, ch. 15, § 1, p. 44; am. 1982, ch. 95, § 127, p. 185; am. and redesisg. 1988, ch. 265, § 499, p. 549; am. 1989, ch. 310, § 30, p. 769; am. 1990, ch. 45, § 40, p. 71; am. 1991, ch. 203, § 2, p. 482; am. 1992, ch. 115, § 37, p. 345; am. 1992, ch. 118, § 3, p. 391; am. 1994, ch. 85, § 2, p. 200; am. 1998, ch. 110, § 32, p. 375; am. 1999, ch. 79, § 2, p. 225; am. 1999, ch. 81, § 21, p. 237; am. 1999, ch. 317, § 3, p. 797; am. 1999, ch. 318, § 4, p. 803; am. 2000, ch. 56, § 3, p. 111; am. 2000, ch. 304, §§ 3, 4, p. 1035; am. 2001, ch. 74, § 9, p. 171; am. 2001, ch. 332, § 5, p. 1165; am. 2002, ch. 161, § 2, p. 474; am. 2002, ch. 171, § 18, p. 493; am. 2006, ch. 265, § 5, p. 821; am. 2008, ch. 63, § 5, p. 164.]

STATUTORY NOTES

Cross References. — Highway distribution account, § 40-701.

Amendments. — This section was amended by two 1999 acts, ch. 79, § 2 and ch. 81, § 21, both effective July 1, 1999, which appear to be compatible and have been compiled together.

The 1999 amendment, by ch. 79, added subsection (9).

The 1999 amendment, by ch. 81, in subsection (1), in the second paragraph, inserted "or any driver's license issued by any other jurisdiction within the United States" preceding "or until he executes" and inserted "or any driver's license" following "identification card"; and in subsection (7), substituted "thirty (30)" for "fourteen (14)."

This section was amended by two 2002 acts, ch. 161, § 2 and ch. 171, § 18, both effective July 1, 2002 which appear to be compatible and have been compiled together.

The 2002 amendment, by ch. 161, § 1, added the third undesignated paragraph in subsection (1).

The 2002 amendment, by ch. 171, § 18, in subsection (4), substituted "who desires" for

"desiring" preceding "to donate any or all organs", inserted "and who has completed a document of gift" preceding "pursuant to the provisions" and substituted "title 39, Idaho Code, may, at the option of the donor, indicate this desire" for "title 39, Idaho Code, at the option of the donor may indicate this desire."

The 2006 amendment, by ch. 265, added the last sentence in subsection (4).

The 2008 amendment, by ch. 63, in the third paragraph in subsection (1), added the exception at the end of the last three sentences; added subsection (3) and redesignated the subsequent subsections accordingly; and added the exception at the end of subsection (4).

Effective Dates. — Section 4 of S.L. 2000, ch. 56, provided that act chapter 56 shall be in full force and effect on and after January 1, 2001.

Section 5 of S.L. 2000, ch. 304, provided that act chapter 304 shall be in full force and effect on and after July 1, 2000.

Section 6 of S.L. 2001, ch. 332 provided that the act should take effect on and after January 1, 2002.

49-2445. Lost, stolen or mutilated cards. — Application for a duplicate identification card shall be made in the same manner as required in section 49-2443, Idaho Code, and the fee for a duplicate shall be the same as provided for the original card. [I.C., § 49-3004, as added by 1976, ch. 15, § 1, p. 44; am. and redesisg. 1988, ch. 265, § 500, p. 549.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3004 and was amended and redesignated by § 500 of S.L. 1988, ch. 265 to become this section.

49-2446. Fraudulent misrepresentation. — It is unlawful for any person to fraudulently misrepresent his age to any dispenser of intoxicating or alcoholic beverages or to falsely procure an identification card, or to alter any of the statements contained in the identification card, or to manufacture, produce, sell, offer for sale, or transfer to another person any document purporting to be a certificate of birth or identification card.

In addition to the misdemeanor penalties that may be imposed for violation of the provisions of this section, the court upon conviction may enter an order directing the department to suspend the driver's license, a permit to drive, or any nonresident's driving privileges for a period of ninety (90) days. A conviction under this section shall not be used as a factor or considered in any manner for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer, nor shall such conviction be grounds for nonrenewal of any insurance policy as provided in section 41-2507, Idaho Code. [I.C., § 49-3005, as added by 1976, ch. 15, § 1, p. 44; am. and redesign. 1988, ch. 265, § 501, p. 549; am. 1989, ch. 342, § 2, p. 865; am. 1990, ch. 45, § 41, p. 71.]

STATUTORY NOTES

Compiler's Notes. — This section was formerly compiled as § 49-3005 and was amended and redesignated by § 501 of S.L. 1988, ch. 265 to become this section.

Effective Dates. — Section 586 of S.L. 1988, ch. 265 provided that the act should take effect January 1, 1989.

Section 47 of S.L. 1990, ch. 45 provided: "This act shall be in full force and effect on

and after July 1, 1990, with the exception that the provisions within each applicable section of Idaho Code relating to classes of driver's licenses shall take effect no later than September 1, 1990, as determined by the director of the Idaho transportation department, and until that time, existing laws shall remain in effect."

CHAPTER 25

NONRESIDENT VIOLATOR COMPACT

SECTION.

- 49-2501. Enactment of compact.
- 49-2502. [Amended and Redesignated.]
- 49-2503. [Repealed.]

SECTION.

- 49-2504 — 49-2514. [Amended and Redesignated.]
- 49-2515. [Repealed.]

49-2501. Enactment of compact. — The nonresident violator compact hereinafter called "the compact" is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

NONRESIDENT VIOLATOR COMPACT

ARTICLE I

Findings and Declaration of Policy

- (1) The party jurisdictions find that:
 - (a) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction must post collateral or bond

to secure appearance for trial at a later date; or if unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or is taken directly to court for his trial to be held. In some instances, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation. The purpose of the practices described is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(b) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(c) The practice described in paragraph (a) of this subsection causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(d) The deposit of a driver's license as a bail bond, as described in paragraph (a) of this subsection, is viewed with disfavor.

(e) The practices described herein consume an undue amount of law enforcement time.

(2) It is the policy of the party jurisdictions to:

(a) Seek compliance with the laws, ordinances and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(b) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(c) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(d) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(3) The purpose of this compact is to:

(a) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in subsection (2) hereof in a uniform and orderly manner.

(b) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

ARTICLE II

Definitions

As used in this compact, the following words have the meaning indicated, unless the context requires otherwise:

(1) "Citation" means any summons, ticket or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Compliance" means to appear in court or pay the fine and costs specified in the citation or to fulfill an obligation arising from any other option expressly stated upon the citation.

(4) "Court" means a court of law or traffic tribunal.

(5) "Driver's license" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(6) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(7) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(8) "Jurisdiction" means a state, territory or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, provinces of Canada or other countries.

(9) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(10) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(11) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(12) "Terms of the citation" mean those options expressly stated upon the citation.

ARTICLE III

Procedure for Issuing Jurisdiction

(1) When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in subsection (2) hereof, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he will comply with the terms of the citation.

(2) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it should take place immediately following issuance of the citation.

(3) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report to the licensing authority of the jurisdiction in which the traffic citation was issued of the failure to comply.

(4) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist, the information in a form and content as contained in the compact manual.

(5) The licensing authority of the issuing jurisdiction need not suspend the privilege of a motorist for whom a report has been transmitted.

(6) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six (6) months after the date on which the traffic citation was issued.

(7) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two (2) jurisdictions affected.

ARTICLE IV

Procedure for Home Jurisdiction

(1) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority.

(2) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the compact manual.

ARTICLE V

Applicability of Other Laws

Except as expressly required by the provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

ARTICLE VI

Compact Administrator Procedures

(1) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one (1) representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an

alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(2) Each member of the board of compact administrators shall be entitled to one (1) vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(3) The board shall elect annually, from its membership, a chairman and vice chairman.

(4) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(5) The board may accept for any of its purposes and functions under this compact, any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise, from any jurisdiction, the United States or any other governmental agency, and may receive, utilize and dispose of the same.

(6) The board may contract with, or accept services or personnel from any governmental or intergovernmental agency, person, firm or corporation, or any private nonprofit organization or institution.

(7) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

ARTICLE VII

Entry Into Compact and Withdrawal

(1) This compact shall become effective when it has been adopted by at least two (2) jurisdictions.

(a) Entry into the compact shall be made by a resolution of ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairman of the board.

(b) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

1. A citation of the authority by which the jurisdiction is empowered to become a party to this compact.
2. Agreement to comply with the terms and provisions of the compact.
3. That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(c) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than sixty (60) days after notice has been given by the chairman of the board of compact administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(2) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until ninety (90) days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

ARTICLE VIII

Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations or violations of law governing the transportation of hazardous materials.

ARTICLE IX

Amendments to the Compact

(1) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the board of compact administrators and may be initiated by one (1) or more party jurisdictions.

(2) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective thirty (30) days after the date of the last endorsement.

(3) Failure of a party jurisdiction to respond to the compact chairman within one hundred twenty (120) days after receipt of the proposed amendment shall constitute endorsement.

ARTICLE X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party jurisdiction or of the United States or the applicability thereof to any government agency, person or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters. [I.C., § 49-2501, as added by 1991, ch. 91, § 1, p. 204.]

STATUTORY NOTES

Prior Laws. — Former § 49-2501, which comprised I.C., § 49-2501, as added by 1986, ch. 231, § 4, p. 627, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

A former chapter 49-25, §§ 49-2501 — 49-2508, 49-2510 — 49-2518, which comprised S.L. 1967, ch. 239, §§ 1-8, 10-18; am. 1969, ch. 220, §§ 3-11, 13, 14; am. 1971, ch. 168, §§ 1, 2; am. 1972, ch. 402, § 1; am. 1974, ch.

27, §§ 184-191, was repealed by S.L. 1976, ch. 59, § 1.

Another former § 49-2509, which comprised S.L. 1967, ch. 239, § 9 was repealed by S.L. 1969, ch. 220, § 2.

Compiler's Notes. — The Nonresident Visitor Compact was approved by the Council

of State Government and is in force in every state, except Alaska, California, Michigan, Montana, Oregon, and Wisconsin.

Effective Dates. — Section 2 of S.L. 1991, ch. 91 provided that the act should be in full force and effect on and after January 1, 1992.

49-2502. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2502 was amended and redesignated as § 49-2201 by § 453 of S.L. 1988, ch. 265.

49-2503. Definitions. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-2503, as added by 1986, ch. 231, § 4, p. 627, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-2504 — 49-2514. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-2504 — 49-2514 were amended and redesignated as §§ 49-2202 — 49-2212 by §§ 454 — 464 of S.L. 1988, ch. 265.

49-2515. Severability. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-2515, as added by 1986, ch. 231, § 4, p. 627, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

CHAPTER 26

SNOWMOBILES

SECTION.

49-2601, 49-2602. [Repealed.]

49-2603 — 49-2613. [Amended and Redesignated.]

SECTION.

49-2614. [Repealed.]

49-2615, 49-2616. [Amended and Redesignated.]

49-2601, 49-2602. Purpose — Title of act. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised 1969, ch. 338, §§ 1, 2, p. 1061, were repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-2603 — 49-2611. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-2603 as §§ 67-7101 — 67-7110 by §§ 532 — 541 of — 49-2611 were amended and redesignated S.L. 1988, ch. 265.

49-2612. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-2612 was amended and redesignated as § 67-7133 by § 558 of S.L. 1988, ch. 265.

49-2613. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-2613 was amended and redesignated as § 67-7111 by § 542 of S.L. 1988, ch. 265.

49-2614. Violations of act — Misdemeanor — Accountable for property damage. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised 1969, ch. 338, § 14, p. 1061, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-2615. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-2615 was amended and redesignated as § 67-7132 by § 557 of S.L. 1988, ch. 265.

49-2616. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-2616 was amended and redesignated as § 67-7112 by § 543 of S.L. 1988, ch. 265.

CHAPTER 27**FUNERAL PROCESSIONS****SECTION.**

49-2701. Funeral procession right-of-way —
Funeral escort vehicles — Fu-
neral lead vehicles.

SECTION.

49-2702. Equipment.
49-2703. Driving in procession.
49-2704. Other vehicles.

SECTION.

49-2705. Liability.

49-2706. Penalty.

SECTION.

49-2707 — 49-2710. [Amended and Redesignated.]

49-2701. Funeral procession right-of-way — Funeral escort vehicles — Funeral lead vehicles. — (1) "Funeral procession" means two (2) or more vehicles accompanying the body of a deceased person, in the daylight hours, including a funeral lead vehicle or a funeral escort vehicle.

(2) "Funeral lead vehicle" means a motor vehicle, including a funeral hearse, properly equipped, pursuant to section 49-2702, Idaho Code, leading and facilitating the movement of a funeral procession.

(3) "Funeral escort vehicle" means any motor vehicle properly equipped pursuant to section 49-2702, Idaho Code, and which escort facilitates the funeral procession and serves to direct traffic as provided in this section.

(4) Pedestrians and operators of all vehicles, except as stated in subsection (7) of this section, shall yield the right-of-way to any vehicle which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead vehicle.

(5) Whenever the funeral escort vehicle or funeral lead vehicle in a funeral procession enters an intersection, the remainder of the vehicles in such funeral procession may continue to follow the funeral lead vehicle through the intersection, notwithstanding any traffic control device or right-of-way provisions prescribed by statute or local ordinance, provided the operator of each vehicle exercises reasonable care toward any other vehicle or pedestrian on the roadway.

(6) Except as provided in subsection (7) of this section, the driver of a funeral escort vehicle may direct the drivers of other vehicles in a funeral procession to proceed through an intersection or to make turns or other movements despite any official traffic control device. The driver of a funeral escort vehicle may direct and control the drivers of vehicles not in a funeral procession, including those in or approaching an intersection, to stop, proceed, or make turns or other movements without regard to an official traffic control device. Funeral escort vehicles may exceed the speed limit by fifteen (15) miles per hour when overtaking the funeral procession to direct traffic at the next intersection.

(7) Funeral processions shall have the right-of-way at intersections regardless of traffic control devices, subject to the following conditions and exceptions:

- (a) Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible or visible signal; and
- (b) Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer. [I.C., § 49-2701, as added by 1992, ch. 311, § 1, p. 924.]

STATUTORY NOTES

Prior Laws. — Former § 49-2701, which comprised I.C., § 49-2701 as added by 1972, ch. 278, § 1, p. 684, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

RESEARCH REFERENCES

Am. Jur. — 7A Am. Jur. 2d, Automobiles and Highway Traffic, § 294.

49-2702. Equipment. — A funeral escort vehicle or a funeral lead vehicle must be equipped with at least one (1) lighted rotating or oscillating lamp exhibiting a red light or lens visible under normal atmospheric conditions for a distance of five hundred (500) feet from the front of the vehicle. The turn signals must be flashing simultaneously on the first vehicle in procession, but only when such vehicle is in use in the funeral procession. [I.C., § 49-2702, as added by 1992, ch. 311, § 1, p. 924.]

STATUTORY NOTES

Prior Laws. — Former § 49-2702, which comprised I.C., § 49-2702, as added by 1986, ch. 233, § 1, p. 641, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-2703. Driving in procession. — (1) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practicable and safe.

(2) Any ordinance, law or regulation requiring that motor vehicles be operated to allow sufficient space between them to enable another vehicle to enter and occupy that space without danger shall not be applicable to vehicles in a funeral procession.

(3) The driver of a motor vehicle in a funeral procession may not drive the vehicle at a speed greater than:

(a) Fifty-five (55) miles per hour on a highway where the posted speed limit is fifty-five (55) miles per hour or more; or

(b) Five (5) miles per hour below the posted speed limit on other streets or roads.

(4) A vehicle being operated in a funeral procession must have its headlights and tail lights illuminated. The turn signals must be flashing simultaneously as warning lights on the vehicle which is the first vehicle in a funeral procession and/or which the driver has reason to believe is the last vehicle in the funeral procession. [I.C., § 49-2703, as added by 1992, ch. 311, § 1, p. 924.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2703 by § 549 of S.L. 1988, ch. 265, effective January 1, 1989. was amended and redesignated as § 67-7122

49-2704. Other vehicles. — The driver of a vehicle that is not part of a funeral procession may not:

(1) Drive between the vehicles forming a funeral procession while they are in motion except when authorized to do so by a police officer or when driving an authorized emergency vehicle emitting an audible or visible signal;

(2) Join a funeral procession to secure the right-of-way as granted in section 49-2701, Idaho Code;

(3) Pass a funeral procession on a multiple lane highway on the procession's right side unless the funeral procession is in the farthest left lane;

(4) Enter an intersection, even if the driver is facing a green traffic control signal, when a funeral procession is proceeding through a red traffic control signal at that intersection as permitted under section 49-2701, Idaho Code, unless the driver can do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is within the intersection, the driver of a vehicle facing a green signal may proceed subject to the right-of-way of the vehicles participating in a funeral procession. [I.C., § 49-2704, as added by 1992, ch. 311, § 1, p. 924.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2704 was amended and redesignated as § 67-7123 by § 550 of S.L. 1988, ch. 265.

49-2705. Liability. — (1) Liability for any death, personal injury, or property damage suffered by any person in a funeral procession shall not be imposed upon the funeral home and/or duly authorized escort vehicle in charge of the funeral procession, its employees or agents, unless such death, personal injury, or property damage is proximately caused by the negligent or intentional act or omission of an employee or agent of the funeral home and/or duly authorized escort vehicle.

(2) Liability for any death, personal injury, or property damage that results from, is caused by, or arising out of any action or inaction of any operator of a vehicle in a funeral procession under the control of a funeral home and/or duly authorized escort vehicle shall not be imposed upon such funeral home and/or duly authorized escort vehicle, its employees or agents, unless the death, personal injury, or property damage is proximately caused by the negligent or intentional act or omission of an employee or agent of the funeral home and/or duly authorized escort vehicle.

(3) The operator of a vehicle in a funeral procession shall not be deemed to be an agent of the funeral home and/or duly authorized escort vehicle unless such operator is an employee of the funeral home and/or duly authorized escort vehicle and acting in the course of his employment, or unless such operator was retained as in [an] independent contractor of the funeral home and is performing services pursuant thereto. [I.C., § 49-2705, as added by 1992, ch. 311, § 1, p. 924.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2705 was amended and redesignated as § 67-7124 by § 551 of S.L. 1988, ch. 265.

49-2706. Penalty. — Any person in violation of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction be punished

by a fine not to exceed one hundred dollars (\$100). [I.C., § 49-2706, as added by 1992, ch. 311, § 1, p. 924.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2706 was amended and redesignated as § 67-7125 by § 552 of S.L. 1988, ch. 265.

49-2707 — 49-2710. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-2707 as §§ 67-7126 — 67-7129 by §§ 553 — 556 of — 49-2710 were amended and redesignated S.L. 1988, ch. 265.

CHAPTER 28

MOTOR VEHICLE SERVICE CONTRACTS

SECTION.

- 49-2801. Short title — Scope.
- 49-2802. Definitions.
- 49-2803. Service contract reimbursement policy requirements.
- 49-2804. Motor vehicle service contract provisions.
- 49-2805. Motor vehicle service contract requirements.

SECTION.

- 49-2806. Prohibited acts.
- 49-2807. Recordkeeping requirements.
- 49-2808. [Repealed.]
- 49-2809. Licensing.
- 49-2810. Guaranty.

49-2801. Short title — Scope. — The provisions of this chapter shall be known as the “Idaho Motor Vehicle Service Contract Act.” This act shall apply to all motor vehicle service contracts offered for sale in the state by any person other than the motor vehicle manufacturer and shall not apply to the customary and usual performance guarantees or warranties offered at no additional charge by motor vehicle manufacturers in connection with the sale of motor vehicles. [I.C., § 49-2801, as added by 1993, ch. 340, § 1, p. 1272.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2801 was amended and redesignated as § 49-444 by § 104 of S.L. 1988, ch. 265. The words “this act” refer to S.L. 1993, ch. 340, which is compiled as §§ 49-2801 — 49-2810.

49-2802. Definitions. — As used in this chapter:

(1) “Mechanical breakdown insurance” shall mean a policy, contract or agreement that undertakes to perform or provide repair or replacement service, or indemnification for such service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear and that is issued by an insurance company authorized to do business in this state.

(2) “Motor vehicle service contract” shall mean a contract or agreement given for consideration over and above the lease or purchase price of a motor

vehicle that undertakes to perform or provide repair or replacement service, or indemnification for such service, for the operational or structural failure of a motor vehicle due to defect in materials or workmanship or normal wear and tear but shall not include mechanical breakdown insurance. A motor vehicle service contract may provide full or partial reimbursement for other expenses incurred by the motor vehicle service contract holder as a direct and proximate result of an operational or structure failure or reduced operating efficiency if included in the contract coverage, including but not limited to, towing, rental car, lodging, motor club, maintenance benefits, roadside assistance and meal expenses.

(3) "Motor vehicle service contract holder" means a person who purchases a motor vehicle service contract, or a permitted transferee.

(4) "Motor vehicle service contract provider" shall mean a person or the assignee of such person who, as the manufacturer, distributor or seller of its product, or a person acting through or with the written consent of the manufacturer, distributor or seller of the product, offers to sell a motor vehicle service contract.

(5) "Liability insurance policy" shall mean a policy of insurance providing coverage for all contractual obligations incurred by a motor vehicle service contract provider under the terms of a motor vehicle service contract issued or sold by the motor vehicle service contract provider. [I.C., § 49-2802, as added by 1993, ch. 340, § 1, p. 1272.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2802 was amended and redesignated as § 49-445 by § 105 of S.L. 1988, ch. 265.

49-2803. Service contract reimbursement policy requirements.

— (1) Mandatory insurance.

(a) No motor vehicle service contract shall be issued, sold, or offered for sale in this state unless the motor vehicle service contract provider is insured under a service contract liability policy issued by an insurer admitted to do business in this state. The policy shall provide that the insurer will pay to, or on behalf of, the motor vehicle service contract provider all sums which the motor vehicle service contract provider is legally obligated to pay according to the motor vehicle service contract provider's contractual obligations under the motor vehicle service contracts issued or sold by the motor vehicle service contract provider.

(b) All service contract liability policies insuring motor vehicle service contracts issued, sold or offered for sale in this state must conspicuously state that, upon failure of the motor vehicle service contract provider to perform under the contract, the issuer of the policy shall pay on behalf of the provider any sums which the provider is legally obligated to perform, according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider.

(2) Reserves. The reserve to be maintained on service contract liability policies issued:

- (a) Covering new vehicles shall be one which generates an unearned premium reserve not less than the unearned premium reserve which is generated by applying the "reverse sum of the digits" earnings method to each policy issued;
 - (b) Covering used vehicles shall be a reserve of not less than the unearned premium reserve which is generated by the "straight line" or "prorated" earnings method; or
 - (c) Shall be by such other methods as are certified annually by a competent actuary who is a member of the American society of actuaries.
- (3) Premiums. Premiums are defined as those funds paid by or on behalf of the motor vehicle service contract provider to the liability insurance policy issuer for such risks covered under such liability insurance policy. Such premiums or the method of developing such premiums shall be filed with the director of the department of insurance for approval.
- (4) Cancellation of service contract liability insurance policy. The issuer of a service contract liability policy may not cancel the policy until a thirty (30) days' advance notice of cancellation has been mailed or delivered to each motor vehicle service contract provider. The cancellation of a service contract liability policy shall not reduce the insurer's responsibility for motor vehicle service contracts issued by motor vehicle service contract providers prior to the date of the cancellation. [I.C., § 49-2803, as added by 1993, ch. 340, § 1, p. 1272; am. 2002, ch. 299, § 1, p. 854.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2803 was amended and redesignated as § 49-446 by § 106 of S.L. 1988, ch. 265.

49-2804. Motor vehicle service contract provisions. — The following provisions shall apply to the sale of motor vehicle service contracts in the state:

(1) A motor vehicle service contract may not be issued, sold or offered for sale in this state unless the contract contains a statement in substantially the following form: "Obligations of the motor vehicle service contract provider under this motor vehicle service contract are guaranteed under a service contract liability policy. Should the motor vehicle service contract provider fail to pay or provide service on any claim within sixty (60) days after proof of loss has been filed, the motor vehicle service contract holder is entitled to make a claim directly against the insurance company." The motor vehicle service contract shall also conspicuously state the name and address and a toll-free claim service number of the insurer.

(2) The motor vehicle service contract must identify the motor vehicle service contract provider, the seller and the motor vehicle service contract holder.

(3) The motor vehicle service contract must conspicuously state the total purchase price of the motor vehicle service contract.

(4) If prior approval of repair work is required, the motor vehicle service contract must conspicuously state the procedure for obtaining prior ap-

proval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining reimbursement for emergency repairs performed outside of normal business hours.

(5) The motor vehicle service contract must conspicuously state the existence of any deductible amount.

(6) The motor vehicle service contract must specify the merchandise and services to be provided and any limitations, exceptions or exclusions. Any preexisting conditions clause must specifically state which preexisting conditions are excluded from coverage.

(7) The motor vehicle service contract must state any terms, restrictions or conditions governing the transferability of the service contract.

(8) The motor vehicle service contract must state the terms, restrictions or conditions governing cancellation of the service contract by either the motor vehicle service contract holder or motor vehicle service contract provider.

(9) A motor vehicle service contract may not be issued, sold or offered for sale in this state unless the contract contains a statement in substantially the following form: "Coverage afforded under this motor vehicle service contract is not guaranteed by the Idaho Insurance Guarantee Association."

(10) Cancellation. No motor vehicle service contract may be issued, sold or offered in this state unless the service contract conspicuously states that the motor vehicle service contract holder is allowed to cancel the service contract:

(a) Within thirty (30) days of its purchase if no claim has been made and receive a full refund of the service contract retail price, less any cancellation fee stated in the service contract not exceeding fifty dollars (\$50.00); or

(b) At any other time and receive a pro rata refund of the service contract retail price for the unexpired term of the service contract, based on the number of the lapsed months, miles or such other measure which is clearly disclosed in the service contract, less any cancellation fees stated in the service contract not exceeding fifty dollars (\$50.00). [I.C., § 49-2804, as added by 1993, ch. 340, § 1, p. 1272.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2804 was amended and redesignated as § 49-447 by § 107 of S.L. 1988, ch. 265.

49-2805. Motor vehicle service contract requirements. — Before the sale of any motor vehicle service contract, the motor vehicle service contract provider shall give written notice to the customer clearly disclosing that the purchase of the contract is not required either to purchase or to obtain financing for a motor vehicle. No motor vehicle service contract may be used in this state by any motor vehicle service contract provider if the contract:

(1) In any respect violates, or does not comply with, the laws of this state;

(2) Contains or incorporates by reference any inconsistent, ambiguous or misleading clauses or any exceptions and conditions that affect the risk assumed or to be assumed in the general coverage of the contract;

(3) Has any title, heading or other indication of its provisions that is misleading; or

(4) Is printed or otherwise reproduced in any manner that renders any material provision of the contract substantially illegible. [I.C., § 49-2805, as added by 1993, ch. 340, § 1, p. 1272.]

STATUTORY NOTES

Compiler's Notes. — Former § 49-2805 was amended and redesignated as § 49-448 by § 108 of S.L. 1988, ch. 265.

49-2806. Prohibited acts. — (1) A motor vehicle service contract provider may not use in its name, contracts or literature:

(a) Any of the words insurance, casualty, surety, mutual or any other words descriptive of the insurance, casualty or surety business; or

(b) A name deceptively similar to the name or description of any insurance or surety corporation, or any other motor vehicle service contract provider.

(2) A motor vehicle service contract provider or its representative may not make, permit or allow to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a motor vehicle service contract. [I.C., § 49-2806, as added by 1993, ch. 340, § 1, p. 1272.]

STATUTORY NOTES

Prior Laws. — Former § 49-2806, which comprised I.C., § 49-2806, as added by 1975, ch. 148, § 4, p. 372; am. 1978, ch. 52, § 1, p. 98, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-2807. Recordkeeping requirements. — All motor vehicle service contract providers shall keep accurate accounts, books and records concerning transactions regulated under the provisions of this act. A motor vehicle service contract provider's accounts, books and records shall include:

(1) Copies of all motor vehicle service contracts issued;

(2) The name and address of each motor vehicle service contract holder; and

(3) Claim files.

All motor vehicle service contract providers shall retain all records pertaining to each motor vehicle service contract holder for at least three (3) years after the specified period of coverage has expired. It shall be the responsibility of the insurer issuing the liability policy to make an examination at least every two (2) years of each motor vehicle service contract provider which they insure to assure that each provider is in compliance

with the recordkeeping requirements. [I.C., § 49-2807, as added by 1993, ch. 340, § 1, p. 1272; am. 2002, ch. 299, § 2, p. 854.]

STATUTORY NOTES

Compiler's Notes. — For words “this act,” see Compiler's Notes, § 49-2801.

49-2808. Registration of motor vehicle service contract providers.
[Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-2808, as added by 1993, ch. 340, § 1, p. 1272, was repealed by S.L. 2002, ch. 299, § 3, effective July 1, 2002.

49-2809. Licensing. — Persons marketing, selling or offering to sell motor vehicle service contracts for motor vehicle service contract providers and motor vehicle service contract providers are exempt from the licensing requirements of chapter 10, title 41, Idaho Code. Motor vehicle service contracts issued by the motor vehicle manufacturer, importer, distributor, or by a wholly owned affiliate of the motor vehicle manufacturer which is not an insurance company, shall not be subject to regulation under title 41, Idaho Code. [I.C., § 49-2809, as added by 1993, ch. 340, § 1, p. 1272; am. 2002, ch. 299, § 4, p. 854.]

49-2810. Guaranty. — The provisions of the Idaho insurance guaranty association act, chapter 36, title 41, Idaho Code, shall not apply to any motor vehicle service contract, mechanical breakdown insurance or motor vehicle service contract liability insurance policy, as defined in this act, and no claim under any motor vehicle service contract, mechanical breakdown insurance or motor vehicle service contract liability insurance policy shall be deemed to be a “covered claim” within the scope of section 41-3605(7), Idaho Code, as to which the Idaho insurance guaranty association has any obligation under section 41-3608, Idaho Code, or other provisions of chapter 36, title 41, Idaho Code. [I.C., § 49-2810, as added by 1993, ch. 340, § 1, p. 1272.]

STATUTORY NOTES

Compiler's Notes. — For words “this act,” see Compiler's Notes, § 49-2801.

CHAPTER 29

RURAL ECONOMIC DEVELOPMENT AND INTEGRATED FREIGHT TRANSPORTATION PROGRAM

SECTION.

49-2901. Rural economic development and integrated freight transportation program.

SECTION.

49-2902. Interagency working group created.
49-2903. Duties of the interagency working group.

SECTION.

49-2904. Rural economic development and integrated freight transportation revolving loan fund.

SECTION.

49-2905. State rail and intermodal facility system plan.

49-2901. Rural economic development and integrated freight transportation program. — (1) The Idaho rural economic development and integrated freight transportation program is hereby established. The Idaho department of agriculture is designated and authorized to administer the rural economic development and integrated freight transportation program.

(2) State funding for rural freight transportation service projects shall benefit the state's interest by assisting businesses and industries to develop and expand their operations in shipping freight and products to market. The state's interest is served by maintaining competitive transportation services for Idaho freight shippers, reducing public roadway maintenance and repair costs, increasing economic development opportunities, increasing domestic and international trade, creating and preserving jobs, and enhancing safety. State funding for projects is contingent upon appropriate private sector partnerships with state and local governments, participation and cooperation. Before recommending the spending of these dedicated state moneys on intermodal projects, the Idaho department of agriculture shall seek federal, local and private funding and participation to the greatest extent possible. Whenever possible, the department shall seek to assist a private sector solution for the implementation of this chapter. [I.C., § 49-2901, as added by 2001, ch. 348, § 2, p. 1224; am. 2006, ch. 413, § 2, p. 1252; am. 2007, ch. 339, § 1, p. 990; am. 2007, ch. 360, § 15, p. 1061.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 413, substituted “rural economic development and integrated freight transportation” for “rail service preservation” in the section's heading and twice in subsection (1); substituted “department of commerce and labor” for “transportation board” in subsection (1); in subsection (2), substituted “rural freight transportation service” for “rail service preservation”, and inserted “by assisting businesses and industries to develop and expand their operations in shipping freight and products to market” in the first sentence, inserted “creating and” in the second sentence, inserted “partnerships with state and local governments” in the third sentence, substituted “recommending the spending of these dedicated state moneys on intermodal projects, the Idaho department of commerce

and labor” for “spending state moneys on projects, the Idaho transportation board” in the fourth sentence; and substituted “department” for “board” in the last sentence.

This section was amended by two 2007 acts which appear to be compatible and have been compiled together.

The 2007 amendment, by ch. 339, twice substituted “Idaho department of agriculture” for “Idaho department of commerce and labor.”

The 2007 amendment, by ch. 360, in subsections (1) and (2), deleted “and labor” following “department of commerce.” The amendment could not be given effect because of the name change implemented in this section by S.L. 2007, ch. 339, § 1.

Compiler's Notes. — Former § [49-2901] 49-2801 was amended and redesignated as § 49-1901 by § 438 of S.L. 1988, ch. 265.

49-2902. Interagency working group created. — (1) An interagency working group is hereby created to advise the department of agriculture on issues and policies in support of the department of agriculture's administration of the rural economic development and integrated

freight transportation program established in section 49-2901, Idaho Code. The interagency working group shall participate in planning and identifying program needs and shall carry out its duties specified in section 49-2903, Idaho Code. Before recommending state funding, using state dedicated funds, and recommending priorities, the interagency working group shall seek pertinent information, facts and data from state and local governments, and agencies regarding rural freight transportation issues.

(2) The interagency working group shall be composed of eight (8) members:

(a) Four (4) members shall be appointed by the director of the Idaho transportation department, two (2) of whom shall be employees of the Idaho transportation department with a working knowledge of rail and truck freight transportation and intermodal entities, one (1) member, not a state employee, shall represent freight shipping interests, and one (1) member shall be a representative from the local highway technical assistance council;

(b) Three (3) members shall be appointed by the director of the department of agriculture, two (2) of whom shall be employees of the department of agriculture with a working knowledge of economic development issues, and one (1) member, not a state employee, shall represent business development and financing interests; and

(c) One (1) member shall be appointed by the director of the department of commerce and shall be an employee with knowledge of rural economic development issues.

(d) At the beginning of each state fiscal year, the director of the Idaho transportation department shall designate one (1) of his appointees as cochairman, and the director of the department of agriculture shall designate one (1) of his appointees as cochairman.

(e) Each member appointed shall serve at the pleasure of the appointing authority, provided however, the service of state employee members shall run concurrently with their state employment. Nonstate employee members shall serve one (1) term of five (5) years, but may be appointed to serve nonconsecutive terms, and shall be reimbursed according to the provisions of section 59-509(b), Idaho Code.

(f) The interagency working group shall meet at such times as necessary and appropriate to review applications for funds distributed pursuant to the provisions of this chapter, but not less frequently than annually.

(3) The department of agriculture shall determine and provide for amounts appropriated to the fund, a one-time amount not to exceed three percent (3%) for planning and operating expenses and staff assistance and support from the department of agriculture and the Idaho transportation department in order to administer the program, and to administer the fund established in section 49-2904, Idaho Code. [I.C., § 49-2902, as added by 2006, ch. 413, § 3, p. 1252; am. 2007, ch. 339, § 2, p. 990; am. 2007, ch. 360, § 16, p. 1061; am. 2008, ch. 27, § 11, p. 51; am. 2008, ch. 153, § 1, p. 443.]

STATUTORY NOTES

Amendments. — This section was amended by two 2007 acts which appear to be compatible and have been compiled together.

The 2007 amendment, by ch. 339, throughout the section, substituted “department of agriculture” for “department of commerce and labor”; in the introductory paragraph in subsection (2), substituted “eight (8) members” for “seven (7) members”; added subsection (2)(c) and made related redesignations; and in subsection (3), substituted “provide for amounts appropriated to the fund, a one-time amount not to exceed three percent (3%)” for “provide such amounts as are necessary,” and inserted “from the department of agriculture and the Idaho transportation department.”

The 2007 amendment, by ch. 360, deleted “and labor” following “department of commerce” throughout the section. The amendment could not be given effect because of the

name change implemented in this section by S.L. 2007, ch. 339, § 2.

This section was amended by two 2008 acts which appear to be compatible and have been compiled together.

The 2008 amendment, by ch. 27, deleted “and labor” following “department of commerce” in subsection (2)(c).

The 2008 amendment, by ch. 153, in subsection (2)(c), deleted “and labor” following “department of commerce”; and in subsection (2)(d), substituted “department of agriculture” for “department of commerce.”

Compiler’s Notes. — Former § 49-4902, as amended by S.L. 2001, ch. 348, § 2, has been amended and redesignated as § 49-4903, pursuant to S.L. 2006, ch. 413, § 4.

A former § [49-2902] 49-2802 was amended and redesignated as § 42-4902 by § 439 of S.L. 1988, ch. 265.

49-2903. Duties of the interagency working group. — (1) The interagency working group shall provide recommendations to the department of agriculture in order for that department to establish criteria for evaluating intermodal projects of significance to the state, and the interagency working group shall continue to monitor projects for which it provides assistance to the department of agriculture.

(2) The interagency working group shall provide recommendations to the department of agriculture in order for the department to develop criteria for prioritizing freight rail and intermodal projects that meet the minimum eligibility requirements for state financial support from the revolving loan fund created in section 49-2904, Idaho Code. Project criteria should consider the level of local financial commitment to the project as well as the cost/benefit ratio. Railroads, shippers, intermodal commerce authorities as defined in chapter 22, title 70, Idaho Code, and others who benefit from the project should participate financially to the greatest extent practicable.

(3) The interagency working group shall provide the assistance necessary for the department to ensure that the state maintains a contingent interest in any equipment, property, rail line, or facility that has outstanding grants or loans. The owner of a qualified line as defined in section 49-2904, Idaho Code, shall not use the line as collateral, remove track, bridges or associated elements for salvage, or use it in any other manner subordinating the state’s interest until any loan made to the owner pursuant to this chapter has been repaid in full. As the state is not a primary lender of money, it is understood the state may need to take a subordinate position for its contingent interest. [I.C., § 49-2902, as added by 2001, ch. 348, § 2, p. 1224; am. and redesign. 2006, ch. 413, § 4, p. 1252; am. 2007, ch. 339, § 3, p. 990; am. 2007, ch. 360, § 17, p. 1061; am. 2008, ch. 27, § 12, p. 52.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 413, renumbered the section from § 49-2902 and substituted “interagency working group” for “board” throughout the section; deleted former subsection (1), which read: “The Idaho transportation board shall monitor the status of the state’s mainline, short line and branch line common carrier railroads through the state rail planning process and various analyses, and shall seek alternatives to abandonment prior to the federal surface transportation board proceedings, where feasible”; redesignated former subsections (2) to (4) as present subsections (1) to (3); in present subsection (1), inserted “provide recommendations to the department of commerce and labor in order for that department to”, substituted “intermodal” for “rail”, inserted “the interagency working group” preceding “shall continue”, and inserted “to the department of commerce and labor”; in present subsection (2), inserted “provide recommendations to the department of commerce and labor in order for the department to”, and “and intermodal”, substituted “financial support from the revolving loan fund created in section 49-2904, Idaho Code” for “assistance” in the first sentence, and inserted “intermodal commerce authorities as defined in chapter 22, title, 70,

Idaho Code” in the second sentence; and in present subsection (3), inserted “provide the assistance necessary for the department to” in the first sentence, inserted “of a qualified line as defined in section 49-2904, Idaho Code” and substituted “until any loan made to the owner pursuant to this chapter has been repaid in full” for “without permission from the board” in the second sentence.

This section was amended by two 2007 acts which appear to be compatible and have been compiled together.

The 2007 amendment, by ch. 339, in subsections (1) and (2), substituted “department of agriculture” for “department of commerce and labor.”

The 2007 amendment, by ch. 360, in subsections (1) and (2), deleted “and labor” following “department of commerce.” The amendment could not be given effect because of the name change implemented in this section by S.L. 2007, ch. 339, § 3.

The 2008 amendment, by ch. 27, corrected a grammatical error in subsection (1).

Compiler’s Notes. — Former § 49-4903 has been amended and redesignated as § 49-4904, pursuant to S.L. 2006, ch. 413, § 5.

A former § [49-2903] 49-2803 was amended and redesignated as § 49-1903 by § 440 of S.L. 1988, ch. 265.

49-2904. Rural economic development and integrated freight transportation revolving loan fund. — (1) The rural economic development and integrated freight transportation revolving loan fund is hereby created in the state treasury. The department of agriculture is authorized to administer the rural economic development and integrated freight transportation revolving loan fund. Moneys in the fund shall be used only for the purposes specified in this chapter. Surplus moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other surplus or idle moneys in the state treasury. Interest earned on the investments shall be returned to the rural economic development and integrated freight transportation revolving loan fund.

(2) Moneys in the fund are subject to appropriation and may consist of appropriations, grants, repayment of loans and other revenues from any other sources.

(3) Moneys in the fund may be used for loans or grants for qualified rural projects for the development and preservation of intermodal rail and truck services and facilities upon terms and conditions to be determined by the department of agriculture with the assistance and advice of the interagency working group as appropriate, for the purpose of:

(a) Rehabilitating, or improving rail lines to preserve essential local rail service;

- (b) Purchasing or rehabilitating railroad equipment necessary to maintain essential rail service;
 - (c) Construction of loading or reloading facilities or other capital improvements including building or improving local transportation infrastructure, to increase business and commerce, and to improve shipping service; or
 - (d) Coordinating intermodal truck and rail traffic for integrated rural freight transportation.
- (4) For the purposes of this chapter, "qualified lines" means class III short lines, branch lines of class I railroads leased or operated by a class III railroad, branch lines of class II railroads, and lines owned by public entities including port districts and intermodal commerce authorities. Definitions of class I, II and III railroads shall be as defined by the federal railroad administration.
- (5) Moneys received by the department of agriculture from loan payments or other revenues shall be redeposited in the rural economic development and integrated freight transportation fund. Repayment of loans made under this chapter shall occur within a period as set by the department, but no repayment which exceeds fifteen (15) years shall be allowed. The repayment schedule and rate of interest shall be determined before the moneys are distributed.
- (6) Moneys distributed under the provisions of this chapter shall be provided as loans to qualified lines or shippers.
- (7) As funds allow, authorize one (1) matching grant per year not to exceed one hundred thousand dollars (\$100,000) for planning and development of intermodal commerce authorities as provided in chapter 22, title 70, Idaho Code, upon conditions established in subsection (3) of this section. [I.C., § 49-2903, as added by 2001, ch. 348, § 2, p. 1224; am. and redesign. 2006, ch. 413, § 5, p. 1252; am. 2007, ch. 339, § 4, p. 990; am. 2007, ch. 360, § 18, p. 1061; am. 2008, ch. 154, § 1, p. 444.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 413, renumbered the section from § 49-2903 and rewrote the section heading and subsection (1), which formerly read: "**Rail service preservation fund.** (1) The rail service preservation fund is hereby created in the state treasury. The Idaho transportation board is authorized to administer the rail service preservation fund. Moneys in the fund shall be used only for the purposes specified in this section"; inserted "repayment of loans" in subsection (2); rewrote the introductory language of subsection (3), which formerly read: "Moneys in the fund may be used by the board for loans or grants for qualified rail lines upon terms and conditions to be determined by the board as appropriate, for the purpose of"; deleted "Rebuilding" from the beginning of subsection (3)(a); substituted "including building or improving local transportation infrastructure, to increase business and com-

merce, and to improve shipping service" for "to increase business on light density lines, and improve service, or mitigate impacts of abandonment on one (1) line by improving service on another line" in subsection (3)(c); rewrote subsection (3)(d), which formerly read: "Financial assistance to class III railroads for the preservation of light density lines as identified by the Idaho transportation board"; in subsection (4), substituted "class I railroads leased or operated by a class III railroad, branch lines of" for "class I or" and inserted "and intermodal commerce authorities"; in subsection (5), substituted "department of commerce and labor" for "board" and "rural economic development and integrated freight transportation" for "rail service preservation" in the first sentence, substituted "department" for "board" in the second sentence, and deleted "if any" following "rate of interest" in the third sentence; and in subsec-

tion (6), substituted "to qualified lines or shippers" for "whenever practicable, except in circumstances as determined by the board".

This section was amended by two 2007 acts which appear to be compatible and have been compiled together.

The 2007 amendment, by ch. 339, throughout the section, substituted "department of agriculture" for "department of commerce and labor"; and added subsection (7).

The 2007 amendment, by ch. 360, deleted "and labor" following "department of commerce" throughout the section. The amendment could not be given effect because of the

name change implemented in this section by S.L. 2007, ch. 339, § 4.

The 2008 amendment, by ch. 154, in subsection (7), inserted "authorize" and substituted "one hundred thousand dollars (\$100,000)" for "twenty-five thousand dollars (\$25,000)."

Compiler's Notes. — Former § 49-4904 has been amended and redesignated as § 49-4905, pursuant to S.L. 2006, ch. 413, § 6.

A former § [49-2904] 49-2804 was amended and redesignated as § 42-4904 by § 441 of S.L. 1988, ch. 265.

49-2905. State rail and intermodal facility system plan. — (1) The Idaho transportation department shall prepare and periodically update a state rail and intermodal facility system plan, a primary objective of which is to identify, evaluate and encourage the development and preservation of essential rail and truck intermodal services. The plan shall:

- (a) Identify and describe the state's rail system;
- (b) Prepare state rail system maps;
- (c) Identify and evaluate mainline capacity issues in cooperation with the railroads;
- (d) Identify and evaluate rail access and congestion issues;
- (e) Identify and evaluate rail commodity flows and traffic types;
- (f) Identify lines and corridors that have been rail banked or preserved;
- (g) Identify and evaluate other rail and intermodal issues affecting the state's freight transportation system and regional and local economies;
- (h) Identify and evaluate those rail freight lines that are potentially subject to abandonment in the future because of unmet capital needs or other reasons, or have recently been approved for abandonment but the track improvements are still in place;
- (i) Whenever possible provide priorities for determining which rail lines or intermodal commerce authorities should receive state support, and provide to the interagency working group supporting information used in establishing such priorities for use by the interagency working group in advising the department of agriculture. The priorities should include:
 - (i) The anticipated benefits to the state and local economy;
 - (ii) Coordinated freight transportation system including the anticipated cost of road and highway improvements necessitated by the proposed project;
 - (iii) Establishment of an intermodal facility, if indicated;
 - (iv) The likelihood the qualified line receiving funding can meet operating costs from freight charges, surcharges on rail traffic and other funds; and
 - (v) The impact of abandonment or capacity constraints if the project does not obtain state support; and
- (j) Identify and describe the state's intermodal rural rail and truck freight system by:
 - (i) Preparing state intermodal and regional freight transfer station system maps;

- (ii) Identifying and evaluating intermodal and truck and rail freight transfer capacity and coordination issues in cooperation with local government and the railroad and truck interests;
- (iii) Identifying and evaluating intermodal and freight transfer access and highway capacity issues; and
- (iv) Identifying and evaluating major freight commodity origins, destinations and traffic flows by mode and corridor.

(2) The Idaho transportation department shall provide information to the interagency working group for assisting and advising the department of agriculture to monitor the status of the state's mainline, short line and branch line common carrier railroads through the state rail planning process and various analyses. In addition, the Idaho transportation department shall submit to the interagency working group, its evaluation of alternatives to abandonment prior to federal surface transportation board proceedings, where feasible.

(3) The state rail and intermodal facility system plan may be prepared in conjunction with any rail plan currently prepared by the Idaho transportation department pursuant to other federal rail assistance programs, or which may be enacted, including if applicable, the federal local rail freight assistance program. [I.C., § 49-2904, as added by 2001, ch. 348, § 2, p. 1224; am. and redesign. 2006, ch. 413, § 6, p. 1252; am. 2007, ch. 339, § 5, p. 990; am. 2007, ch. 360, § 19, p. 1061; am. 2008, ch. 27, § 13, p. 53.]

STATUTORY NOTES

Amendments. — The 2006 amendment, by ch. 413, renumbered the section from § 49-2904 and inserted “and intermodal facility system” in the section's heading, subsection (1) and present subsection (3); in the introductory language of subsection (1), substituted “department” for “board”, inserted “development and” and “and truck intermodal”; inserted “and intermodal” and “freight” in subsection (1)(g); deleted former subsection (1)(i), which read: “Quantify the costs and benefits of maintaining rail service on those lines potentially subject to abandonment in the future; and”; redesignated former subsection (1)(j), which formerly read: “Establish priorities for determining which rail lines should receive state support. The priorities should include the anticipated benefits to the state and local economy, the anticipated cost of road and highway improvements necessitated by the abandonment of the rail line, the likelihood the rail line receiving funding can meet operating costs from freight charges, surcharges on rail traffic and other funds, and the impact of abandonment or capacity con-

straints on changes in energy utilization and air pollution” as present subsections (1)(i) to (1)(i)(v); added present subsections (1)(j) and (2); redesignated former subsection (2) and present subsection (3); and made punctuation changes.

This section was amended by two 2007 acts which appear to be compatible and have been compiled together.

The 2007 amendment, by ch. 339, in the introductory paragraph in subsection (1)(i) and in subsection (2), substituted “department of agriculture” for “department of commerce and labor”; and at the beginning of the introductory paragraph in subsection (1)(i), substituted “Whenever possible provide priorities” for “Establish priorities.”

The 2007 amendment, by ch. 360, in the introductory paragraph in subsection (1)(i) and in subsection (2), deleted “and labor” following “department of commerce.” The amendment could not be given effect because of the name change implemented in this section by S.L. 2007, ch. 339, § 5.

The 2008 amendment, by ch. 27, corrected a grammatical error in subsection (1)(i).

CHAPTER 30

IDENTIFICATION CARDS

SECTION.

49-3001 — 49-3005. [Amended and Redesignated.]

49-3001 — 49-3005. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-3001 as §§ 49-2442 — 49-2446 by §§ 497 — 501 of
— 49-3005 were amended and redesignated S.L. 1988, ch. 265.

CHAPTER 31

CROSS-COUNTRY SKIING

SECTION.

49-3101 — 49-3103. [Repealed.]

49-3104 — 49-3108. [Amended and Redesignated.]

SECTION.

49-3109. [Repealed.]

49-3101 — 49-3103. Purpose — Short title — Definitions. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, 1983, ch. 3, § 1, p. 4, were repealed by S.L.
which comprised I.C., §§ 49-3101 — 49-3103, 1988, ch. 265, § 502, effective January 1,
as added by 1979, ch. 103, § 1, p. 247; am. 1989.

49-3104 — 49-3108. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ 49-3104 as §§ 67-7115 — 67-7119 by §§ 544 — 548 of
— 49-3108 were amended and redesignated S.L. 1988, ch. 265.

49-3109. Rules and regulations. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which 1988, ch. 265, § 502, effective January 1,
comprised I.C., § 49-3109, as added by 1979, 1989.
ch. 103, § 1, p. 247, was repealed by S.L.

CHAPTER 32

IDAHO SAFE BOATING ACT

SECTION.

49-3201 — 49-3231. [Repealed.]

49-3201 — 49-3231. Idaho safe boating act. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — These sections, which comprised I.C., §§ 49-3201 — 49-3231, as added by 1980, ch. 246, § 2, p. 568; am. 1981, ch. 134, § 1, p. 236; am. 1982, ch. 95, §§ 128 — 130, p. 185; am. 1984, ch. 195,

§§ 32, 33, p. 445; am. 1986, ch. 270, § 2, p. 694; am. 1986, ch. 291, §§ 1-3, p. 733, were repealed by S.L. 1986, ch. 207, § 1, effective January 1, 1987. For present law see §§ 67-7001 — 67-7036.

CHAPTER [33] 32**RIDESHARING ARRANGEMENTS****SECTION.**

[49-3301, 49-3302] 49-3201, 49-3202. [Repealed.]

[49-3303 — 49-3311] 49-3203 — 49-3211. [Amended and Redesignated.]

[49-3301, 49-3302] 49-3201, 49-3202. Ridesharing arrangement defined — Commercial vehicle exemptions. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — These sections, which comprised I.C., §§ 49-3201, 49-3202, as added by 1980, ch. 371, § 1, p. 953, were

repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

[49-3303 — 49-3311] 49-3203 — 49-3211. [Amended and Redesignated.]

STATUTORY NOTES

Compiler's Notes. — Former §§ [49-3303 — 49-3311] 49-3203 — 49-3211 were amended

and redesignated as §§ 49-2431 — 49-2439 by §§ 488 — 496 of S.L. 1988, ch. 265.

CHAPTER 34**IDAHO TRAFFIC INFRACTIONS ACT****SECTION.**

49-3401. [Repealed.]

49-3402, 49-3403. [Amended and Redesignated.]

49-3404, 49-3405. [Repealed.]

49-3406 — 49-3408. [Amended and Redesignated.]

SECTION.

49-3409, 49-3410. [Repealed.]

49-3411. [Amended and Redesignated.]

49-3412. [Repealed.]

49-3401. Definitions. [Repealed.]

STATUTORY NOTES

Compiler's Notes. — This section, which comprised I.C., § 49-3401, as added by 1981, ch. 223, § 6, p. 415; am. 1982, ch. 353, § 35, p.

874; am. 1984, ch. 52, § 1, p. 92, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-3402, 49-3403. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-3402 as §§ 49-1501 and 49-1502 by §§ 368, 369 of and 49-3403 were amended and redesignated S.L. 1988, ch. 265.

49-3404, 49-3405. Hearing — Penalty for failure to comply. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — Session Laws 1981, ch. 223, § 6, p. 415 added §§ 49-3404 and 49-3405 which would have become effective July 1, 1982. However, S.L. 1982, ch. 353, § 4, which became effective April 2, 1982, provided: "That Sections 49-3403, 49-3404, 49-3405, 49-3406, 49-3408 and 49-3409, Idaho Code, as enacted by Chapter 223, Laws of 1981, be, and the same are hereby repealed, and such additions attempted by such sections are null and void ab initio."

49-3406 — 49-3408. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-3406 — 49-3408 were amended and redesignated as §§ 49-1503 — 49-1505 by §§ 370 — 372 of S.L. 1988, ch. 265.

Another former §§ 49-3406 — 49-3608 as added by Session Laws 1981, ch. 223, § 6, p. 415, which would have become effective July 1, 1982, were repealed by S.L. 1982, ch. 353, § 4, which became effective April 2, 1992, and which provided: "That Sections 49-3403, 49-3404, 49-3405, 49-3406, 49-3407, 49-3408 and 49-3409, Idaho Code, as enacted by Chapter 223, Laws of 1981, be, and the same are hereby repealed, and such additions attempted by such sections are null and void ab initio."

49-3409. Evidence of infraction inadmissible in a civil action. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — Session Laws 1981, ch. 223, § 6, p. 415 added § 49-3409, which would have become effective July 1, 1982. However, S.L. 1982, ch. 353, § 4, which became effective April 2, 1982, provided: "That Sections 49-3403, 49-3404, 49-3405, 49-3406, 49-3408 and 49-3409, Idaho Code, as enacted by Chapter 223, Laws of 1981, be, and the same are hereby repealed, and such additions attempted by such sections are null and void ab initio."

49-3410. Disposition of penalties and forfeitures by the courts. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-3410, as added by 1981, ch. 223, § 6, p. 415; am. 1982, ch. 353, § 39, p. 874, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-3411. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-3411 was amended and redesignated as § 49-1506 by § 373 of S.L. 1988, ch. 265.

49-3412. Short title. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which 1988, ch. 265, § 502, effective January 1, comprised I.C., § 49-3412, as added by 1981, 1989. ch. 223, § 6, p. 415, was repealed by S.L.

CHAPTER 35**LABOR AND MATERIAL LIENS****SECTION.**

49-3501. [Repealed.]

49-3502 — 49-3511. [Amended and Redesignated.]

49-3501. Definitions. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which 1988, ch. 265, § 502, effective January 1, comprised I.C., § 49-3501, as added by 1982, 1989. ch. 351, § 2, p. 868, was repealed by S.L.

49-3502 — 49-3511. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-3502 as §§ 49-1701 — 49-1710 by §§ 408 — 417 of — 49-3511 were amended and redesignated S.L. 1988, ch. 265.

CHAPTER 36**ABANDONED MOTOR VEHICLES****SECTION.**

49-3601. [Repealed.]

49-3602 — 49-3604. [Amended and Redesignated.]

49-3605. [Repealed.]

49-3606. [Amended and Redesignated.]

SECTION.

49-3607. [Repealed.]

49-3608 — 49-3621. [Amended and Redesignated.]

49-3622. [Repealed.]

49-3601. Definitions. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-3601, as added by 1982, ch. 267, § 1, p. 690; am. 1983, ch. 143, § 2, p. 351, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-3602 — 49-3604. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-3602 — 49-3604 were amended and redesignated as §§ 49-1818, 49-1801, 49-1802 by §§ 436, 419, 420 of S.L. 1988, ch. 265, respectively.

49-3605. Certification of tow truck operator to dispose of vehicles — Bond — Compliance required. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-3605, as added by 1982, ch. 267, § 1, p. 690, was repealed by S.L. 1983, ch. 143, § 1.

49-3606. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former § 49-3606 was amended and redesignated as § 49-1803 by § 421 of S.L. 1988, ch. 265.

49-3607. Local ordinances. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-3607, as added by 1982, ch. 267, § 1, p. 690, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

49-3608 — 49-3621. [Amended and Redesignated.]**STATUTORY NOTES**

Compiler's Notes. — Former §§ 49-3608 — 49-3621 were amended and redesignated as §§ 49-1804 — 49-1817 by §§ 422 — 435 of S.L. 1988, ch. 265.

49-3622. Disposition of proceeds. [Repealed.]**STATUTORY NOTES**

Compiler's Notes. — This section, which comprised I.C., § 49-3622, as added by 1982, ch. 267, § 1, p. 690, was repealed by S.L. 1988, ch. 265, § 502, effective January 1, 1989.

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